

THE
MINOR LAW-BOOKS

TRANSLATED BY

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PART I

NÂRADA. BR/ĪHASPATI

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BRIHASPATI.



INTRODUCTION

TO THE

FRAGMENTS OF BRĪHASPATI.

THE fragments of *Brīhaspati* are among the most precious relics of the early legal literature of India. Apart from their intrinsic value and interest, as containing a very full exposition of the whole range of the Hindu law, their close connexion with the Code of Manu gives them a special claim to consideration, and renders them a valuable link in the chain of evidence¹ by which the date of the most authoritative code of ancient India has been approximately determined².

The connexion between the Manu and *Brīhaspati Smṛitis* appears first from the way in which *Brīhaspati* refers to, and quotes from, the Code of Manu. In the chapter on Gambling and Betting, *Brīhaspati* says (XXVI, 1), 'Gambling has been prohibited by Manu, because it destroys truth, honesty, and wealth. It has been permitted by others, when conducted so as to allow the king a share (of every stake).' The observation that Manu disagrees with the other legislators as to the permissibility of gambling is perfectly just. See Manu IX, 221-228; *Yâgñavalkya* II, 199-203; *Âpastamba* II, 25, 12, 13; *Nârada* XVII, 1-8; *Kâtyâyana* XXV, 1. *Brīhaspati* goes on to say (XXVI, 2) that 'Gambling shall take place under the superintendence of keepers of gaming-houses, for the purpose of discovering thieves.' This rule agrees almost literally with *Yâgñavalkya* II, 203, and the fact that *Brīhaspati* does not refer to *Yâgñavalkya* by name, although he names Manu, can only be accounted for by his very particular veneration for the latter, as the fountain-head of Sacred Law.—On the

¹ Bühler, *The Laws of Manu* (Sacred Books of the East, vol. xxv), pp. cviii-cx.

² What follows up to p. 275 has been reprinted, with modifications and additions, from a paper on 'Manu and *Brīhaspati*,' in the first volume of the *Vienna Zeitschrift f. d. Kunde d. Morgenlandes*, pp. 275-280.

subject of weights or coins, *Brīhaspati* says (X, 10), 'The quantities beginning with a floating particle of dust and ending with a *Kârshâpana* have been declared by *Manu*.' The statements of *Manu* which are thus referred to by *Brīhaspati* may be found, *Manu* VIII, 132-137.—In speaking of the *Niyoga* or appointment of a widow to raise offspring to her deceased husband, *Brīhaspati* says (XXIV, 12), 'The *Niyoga* has been declared by *Manu*, and again prohibited by the same; on account of the successive deterioration of the (four) ages of the world, it must not take place (in the present or *Kali* age).' This text shows that the conflicting statements of *Manu* (IX, 57-68) with regard to the *Niyoga*, which have been the matter of so much comment among European philologists, had already struck his follower *Brīhaspati*, and were ingeniously explained by him, in accordance with the practice of his own times.—In the chapter on Inheritance (XXV, 33), *Brīhaspati* observes that out of the thirteen sons declared by *Manu*, a legitimate son of the body (*aurasa*) and an appointed daughter (*putrikâ*) are the only ones that represent real issue. It is true that *Manu* (IX, 158, 180) speaks emphatically of twelve sons only, but the appointed daughter or her son is not among these, and he advocates in strong terms the rights of an appointed daughter's son (IX, 127-140), and cuts down very much the rights of all the other substitutes for a son (IX, 180, 181). This shows that *Brīhaspati*'s rules on this head are perfectly in keeping with the teaching of *Manu*.—In the chapter on Sale without Ownership (XIII, 1) he refers to *Manu* (VIII, 197) by the name of *Bhrigu*.

Secondly, in a number of other instances, the Code of *Manu*, though not appealed to by name, is nevertheless distinctly referred to by *Brīhaspati*. Thus, in the chapter on Inheritance (XXV, 79), he observes that 'those by whom clothes and so forth have been declared impartible have not decided properly.' The well-known *versus memorialis* concerning impartible property, the contents of which are further discussed in the sequel by *Brīhaspati*, occurs both in the Code of *Manu* (IX, 219) and

Indirect
references.

in the *Vishnu-smṛiti*; and it may be presumed either that the authors of these two works are the authorities referred to by *Bṛihaspati*, or that *Manu* is referred to in the pluralis majestatis, as is often the case with teachers. The reason why *Manu* is not referred to by name may be sought in the fact that *Bṛihaspati* does not care to openly avow his dissent from so eminent an authority.—In the chapter on Debts, *Bṛihaspati* remarks (XI, 4) that interest is divided into four species by some, into five by others, and by others again into six sorts. Four sorts of interest are mentioned by *Manu*, VIII, 153.—In the chapter on Inheritance (XXV, 35), he declares that an appointed daughter or her son has been pronounced equal to a legitimate son of the body. The rights of an appointed daughter, as shown before, are laid great stress upon by *Manu*, and he actually states that an (appointed) daughter is equal to a son (IX, 130).

Thirdly, *Bṛihaspati*, even when not expressly referring to *Manu*, presupposes throughout an acquaintance with his Code, and a very large portion of his Comments on
Manu. *Smṛiti* is devoted to the interpretation of technical terms or to the elucidation or amplification of the somewhat laconic enunciations of *Manu*. Thus, for example, in the chapter on Debts (XI, 5–11), he explains, comments on, and amplifies the four sorts of interest mentioned by *Manu* (VIII, 153). In the same chapter (XI, 55–58) he interprets the curious terms used by *Manu* (VIII, 49) to denote the various modes of recovering an outstanding debt. In the chapter on Sale without Ownership (XIII, 2), he explains the technical term *asvâmin*, ‘another person than the owner,’ which had been first used by *Manu*. From the general maxim of *Manu* (VIII, 2, 11) that the allotment of shares among partners in any undertaking shall be arranged in the same way as for a company of officiating priests, *Bṛihaspati* (XIV, 20–32) has developed a series of elaborate rules regarding partnership in tillage, workmanship, trade, musical performances, and robbery. In the same way, the threefold law of breach of promised obedience, non-payment of wages, and disputes between the owner of cattle and his servants has been

developed by *Bṛihaspati* (XVI, 1, 2) from Manu's two titles of non-payment of wages and disputes between master and servant. An analogous course of development may be observed in the chapters on Ordeals, Resumption of Gift, and Violation of Agreements, as compared to the scanty provisions of Manu (VIII, 114-116, 212-214, 218-221) on the same subjects. In the chapter on Boundary Disputes, Manu's technical term *maula*, 'an original inhabitant of a place,' is interpreted by *Bṛihaspati* (XIX, 12). It would be easy to multiply examples. One more analogy between the Manu and *Bṛihaspati Smṛitis* seems to be specially deserving of notice. Both agree in arranging the whole field of legal controversies under eighteen heads, and it appears from the introductory verses to several chapters (XII, 1; XIII, 1; XV, 1; XVI, 1; XVII, 1, &c.) that *Bṛihaspati* was anxious to discuss the eighteen titles of law in the same order as Manu. Nevertheless, he applies an interesting new principle of division to the eighteen titles of law by distinguishing fourteen titles relating to civil law, and four titles relating to criminal law (II, 3-9), and introduces a number of subdivisions (II, 2, 10; XVI, 1-3; XXII, 1, 2).

Fourthly, *Bṛihaspati* declares emphatically that any *Smṛiti* text opposed to the teaching of Manu has no validity (XXVII, 4).

Under these circumstances the tradition preserved in the *Skanda-purāna* that there are four versions of the Code of

Result. Manu, by *Bṛiṅgu*, *Nārada*, *Bṛihaspati*, and *Aṅgiras*, acquires a peculiar significance.

Taking the version attributed to *Bṛiṅgu* to be identical with the Code of Manu, the *soi-disant* composition of *Bṛiṅgu*, it is impossible to doubt its connexion with the *Nārada*¹ and *Bṛihaspati Smṛitis*. It is but natural to find, therefore, that *Nārada* and *Bṛihaspati* agree very closely *inter se*, as e. g. in adding a title called 'Miscellaneous' to Manu's eighteen titles of law (*Bṛihaspati* XXVII, 1), in enumerating and describing three sorts of proof, eleven or twelve kinds of witnesses, eight or ten 'members of a lawsuit,' four parts of a judicial proceeding, four sorts of answer in a suit,

¹ See above, Introduction to *Nārada*.

various 'defects of a plaint,' three kinds of officiating priests, four species of gifts, four divisions of violence (*sâhasa*), five modes of recovery of a debt, &c. Many other analogies between the two works may be gathered from a mere cursory comparison of their contents; they agree particularly in the use of many technical terms. One of these, the designation of a gold coin by the Roman or Greek term *dînâra*, i. e. *denarius* (X, 15), is an important test for the date of both works, and compels us to refer the earlier date of the composition of *Bṛihaspati's* law-book to the first century A.D., the period to which belong the earliest Indian coins corresponding in weight to the gold *denarius* of the Romans¹. As regards the lower limit, one might feel inclined to assign an earlier date to *Bṛihaspati* than to *Nârada*, on the ground of his being a faithful follower of *Manu* in a far higher degree than is *Nârada*, who differs from *Manu* on such important points as the names and order of several titles of law, the legitimacy of the *Niyoga*, &c.² Nevertheless, the enlightened views of *Bṛihaspati* on the subject of women's rights³, and the advanced character of his teaching generally, render it probable that his learned composition belongs to a somewhat more recent period than the *Nârada-smṛiti*.

The fact that *Bṛihaspati* was considered an inspired writer by the very earliest commentators of law-books, such as e.g. by *Medhâtithi* (ninth century), proves him to have preceded those commentators by several centuries. An analogous result may be obtained by comparing the laws of *Bṛihaspati* with the corresponding portions of the Burmese

The Dhammathats, the Buddhist Indian originals of which, according to Dr. Forchhammer, were composed in the seventh, eighth, and ninth centuries. The coincidences between *Bṛihaspati* and the Dhammathats are both numerous and striking⁴. It may be added that

¹ West and Bühler, *Digest of the Hindu Law*, I, p. 48; Jolly, *Tagore Lect.* p. 56.

² See above, Introduction to *Nârada*. ³ Jolly, *Tagore Lectures*, pp. 193, 241.

⁴ Several coincidences between *Bṛihaspati* and the *Wagaru*, the earliest law-book of Burma, have been collected by Dr. Forchhammer, *Jardine Prize Essay*, pp. 55, 57, 58. For other examples, see Dr. Forchhammer's edition of the *Wagaru*, pp. 12 (gifts), 36 (twelve witnesses), &c.

the judicial proceeding described in the well-known drama *Mrikkhakaika* corresponds to the rules laid down by *Brihaspati*, as has been shown elsewhere. For all these reasons, the composition of the *Brihaspati-smṛiti* cannot be referred to a later period than the sixth or seventh century A. D.

Hitherto, those texts of *Brihaspati* have been entirely left aside which relate to other parts of the sacred law than Civil and Criminal Law and Procedure. Hemādri's *Katurvargakintāmani*, *Devāndabhatta's Smṛitīkandrikā*, and most other standard Dharmanibandhas contain a number of texts of *Brihaspati* on *Dāna*, *Vrata*, *Prāyaskitta*, and all other parts of the religious law. However, an examination of these texts has yielded no definite result, and they are not sufficiently numerous by far to admit of reconstructing the purely religious portion of the ancient *Brihaspati-smṛiti* from them. Nor is it at all improbable that the legal texts of *Brihaspati* may have formed an independent work from the outset, just like the *Nārada-smṛiti*, or like the Burmese *Dhammathats*, in which forensic law was treated by itself, without any admixture of religious elements.

The legal texts attributed to *Brihaspati* are so numerous as to make up in their entirety a law-book which contains a full exposition of forensic law, hardly inferior in size to the *Nārada-smṛiti*. The principles on which the texts have been collected and arranged are the same as in the case of the Quotations from *Nārada*. The preservation of the introductory texts to several titles of law, and the occurrence of many long series of consecutive texts of *Brihaspati* in the Dharmanibandhas, facilitate considerably the task of arrangement, though the original position of many texts in *Brihaspati's* *Dharmasāstra* must needs remain doubtful. For the chapter on Inheritance the following other works have been used, besides those consulted for the Quotations from *Nārada*: G. Sarkar's translation of the *Vīramitrodaya* on Inheritance (V.); Dr. Burnell's *Mādhaviya* and *Varadarāga*; Professor Bühler's edition of the *Ugvalā* of *Haradatta*; *Haradatta's Gautamiyā Mitāksharā* (MS.); *Nandapandita's Vaigayantī* (MS.).

BRĪHASPATĪ.

I. CONSTITUTION OF A COURT OF JUSTICE.

1. In former ages men were strictly virtuous and devoid of mischievous propensities. Now that avarice and malice have taken possession of them, judicial proceedings have been established.

2. A judicial assembly is declared to be of four sorts : stationary, not stationary, furnished with (the king's) signet-ring, and directed (by the king). The judges are of as many sorts.

3. A stationary (court meets) in a town or village; one not stationary is called movable ; one furnished with (the king's) signet-ring is superintended by the chief judge ; one directed (by the king) is held in the king's presence.

4. The king, his chosen representative (the chief judge), the judges, the law (*Smṛiti*), the accountant and scribe, gold, fire, water, and the king's own officer are ten members of legal procedure.

5. A court of justice is composed of these ten members ; and a judicial assembly of this sort, in which the king examines causes attentively, is comparable to an act of religion.

I, 1. Vīram. p. 5.

2-10. *Smṛitīk.*

2, 3. Aparārka. pratish/hitāpratish/hitā mudritā sāsītā tathā | katurvidhā sabhā proktā sabhyâs kaiva tathâvidhâh || pratish/hitā pure grâme kalâ nâmâpratish/hitâ | mudritâdhyakshasamyutâ râga-yuktâ ka sāsītâ || The *Smṛitīkandrikâ* reads sâstritâ, 'governed by the science of law,' for sāsītâ, 'directed.'

4-10. Vīram. pp. 41, 42.

6. The office of these ten (members) is separately declared for each. The chief judge decides causes; the king inflicts punishments; the judges investigate the merits of the case.

7. The law furnishes the decree, whether victory or defeat; gold and fire serve the purpose of administering ordeals; water is required for persons suffering from thirst or hunger.

8. The accountant should compute the sum (in dispute); the scribe should record the proceedings; the king's own officer should compel the attendance of the defendant, assessors, and witnesses.

9. And he should constantly keep both the plaintiff and defendant in custody, if they have given no sureties. Of these members (of a court of justice) the king is the head; the chief judge is the mouth;

10. The judges are both arms; the law is both hands; the accountant and the scribe are the legs; gold, fire, and water are the eyes and the heart; and the king's own officer is the feet.

11. That judicial assembly is equal (in sanctity) to a sacrificial meeting in which there sit seven or five or three Brahmans, who are acquainted with the world, with (the contents of) the Veda, and with law.

12. In a controversy he examines the (plaint in) question and the answer; he speaks gently at first

11. M. Macn. I, 1, 11.

12. Vīram. p. 37. If the reading be correct, a double etymology of the term *prāḍvivāka*, 'a judge,' is propounded in this text: (1) he who asks or examines (*prikkhati*) and afterwards decides (*vadati*); (2) he who speaks gently at first (*prāḍ vadati*). There is another reading, *pravadati* for *prāḍ vadati*, under which the former etymology is the only one propounded in this text. It is beyond doubt the true etymology.

(prâg vadati). Therefore he is called Prâdvivâka (judge).

13. Men qualified by the performance of devotional acts, strictly veracious and virtuous, void of wrath and covetousness, and familiar with (legal) lore, should be appointed by the ruler as judges (or assessors of the court).

14. Two persons thoroughly familiar with grammar and vocabulary, skilled in (the art of) computation, honest, and acquainted with various modes of writing, should be appointed by the king as accountant and scribe (respectively).

15. A veracious man, who pays obedience to the judges, should be appointed (by the king) as his own officer, to summon and to keep in custody the witnesses, plaintiff, and defendant.

16. The king should sit facing the east; the judges, facing the north; the accountant, facing the west; and the scribe, facing the south.

17. The king should cause gold, fire, water, and codes of the sacred law to be placed in the midst of them, also (other) holy and auspicious things.

18. In the middle of his fortress, he should build a house, with water and trees adjacent to it, apart (from other buildings), and let him use as court of justice (a room situated) on the eastern side of it, properly constituted and facing the east,

19. Furnished with garlands and with a throne,

13. Aparârka. sâdhukarmakriyâyuktâh satyadharmaparâyânâh | akrodhalobhâh sâstragñâh sabhyâh kâryâ mahîbhugâ ||

14, 15. Vîram. p. 42.

15, 16. May. p. 4 (Mandlik).

17. Smrîtîk. hiraṇyam agnim udakam dharmasâstrâni kaiva hi | tanmadhye sthâpayed râgâ puṇyâni ka hitâni ka ||

18, 19. Vîram. p. 10. The epithet lakshanyâm, 'properly con-

supplied with grain, (decorated) with jewels, adorned with statues, pictures, and images of deities, and (provided) with fire and water.

20. Let the king try causes, attended by three judges, after having entered the excellent judicial assembly, in a sitting or standing posture.

21. The king having risen early in the morning and performed ablutions according to rule, and having shown due honour to Gurus (persons entitled to respect), astronomers, physicians, deities, Brahmans, and domestic priests,

22. And having saluted the Gurus and the rest, should enter the court-room, decorated with flowers, ornaments, and (fine) clothes, with a cheerful countenance.

23. Having entered the judicial assembly in the forenoon, together with the seniors, ministers, and attendants, he should try causes and should listen to (the expositions of) the Purānas, codes of law, and rules of polity.

24. Let the king or a member of a twice-born caste officiating as chief judge try causes, acting on principles of equity, and abiding by the opinion of the judges, and by the doctrine of the sacred law.

stituted,' means 'constructed according to the rules of architecture.'
Vīram.

20. Smṛtīk. rāgâ kâryâni sampasyet sabhyair eva tribhir vr̥tâh | sabhâm eva pravisyâgryâm âsînâh sthita eva vâ || Nearly identical with Manu VIII, 10.

21, 22. Smṛtīk. prâtar utthâya nr̥patiḥ saukam kr̥tvâ vidhânatah | gurûñ gyoṭirvido vaidyân devân viprân purohitân || yathârham etân sampûgya sapushpâbharanâmbaraḥ | abhivâdya ka gurvâdîn sumukhaḥ praviset sabhâm ||

23. May. p. 5.

24. Smṛtīk. rāgâ kâryâni sampasyet prâdvivâko-sthavâ dvigaḥ | nyâyâñgâny agrataḥ kr̥tvâ sabhyasâstramate sthitaḥ ||

25. For persons roaming the forest, a court should be held in the forest; for warriors, in the camp; and for merchants, in the caravan.

26. Cultivators, artizans (such as carpenters or others), artists, money-lenders, companies (of tradesmen), dancers, persons wearing the token of a religious order (such as Pâsupatas), and robbers should adjust their disputes according to the rules of their own profession.

27. (The king) should cause the disputes of ascetics and of persons versed in sorcery and witchcraft to be settled by persons familiar with the three Vedas only, and not (decide them) himself, for fear of rousing their resentment.

28. Relatives, companies (of artizans), assemblies (of co-habitants) and other persons duly authorized by the king, should decide lawsuits among men, excepting causes concerning violent crimes (sâhasa).

29. (Meetings of) kindred, companies (of artizans), assemblies (of co-habitants), and chief judges, are declared to be resorts for the passing of a sentence, to whom he whose cause has been previously tried may appeal in succession.

30. When a cause has not been (duly) investigated by (meetings of) kindred, it should be decided after due deliberation by companies (of artizans); when it has not been (duly) examined by companies (of artizans, it should be decided) by assemblies (of co-habitants); and when it has not been (sufficiently) made out by such assemblies, (it should be tried) by appointed (judges).

31. Judges are superior in authority to (meetings of) kindred and the rest; the chief judge is placed above them; and the king is superior to all, because he passes just sentences.

32. The insight of princes surpasses by far the understandings (of other persons), in the decision of the highest, lowest, and middling controversies.

33. They who are ignorant of the customs of the country, unbelievers, despisers of the sacred books, insane, irate, avaricious, or troubled (by pain or illness) should not be consulted in the decision of a cause.

34. A Brahman is the root of the tree of justice; the sovereign prince is its stem and branches; the ministers are its leaves and blossoms; just government is its fruit.

35. Renown and wealth are the sap of its fruit; a dignified station, invincibility, esteem among men, and an eternal residence in paradise is enjoying its fruit.

36. Having recognised these advantages in (the pursuit of) justice, a king should be equitable towards litigants, and should pass a just sentence, discarding avarice and other (evil propensities).

II. GENERAL RULES OF PROCEDURE.

1. This legal procedure is declared, however, to be divided into a number of branches. Hear, now,

33. *Smṛitiḥ. desākārānabhigñā ye nāstikāḥ sāstravargitāḥ | unmatkruddhalubdhātā na prashavyā vinirṇaye ||*

34-36. *Vīram. p. 14. Read bhogoḥtha grahapūganam in 35; vivādinām | tyaktvā lobhādikam rāgā dharmyam in 36.*

II, 1, 2. Vīram. p. 292.

its various divisions which may become the causes of lawsuits.

2. I will proclaim in due order, according to truth, (the titles of law) beginning with the recovery of a debt and ending with (the title of) gambling with dice and betting on animals, as well as the subdivisions of the titles of law.

3. When a master pays wages to the labourers hired by him, for the purpose of doing work, and the labourers do not work, a lawsuit will arise in consequence.

4. When any man injures (another), or when he refuses to give what he ought to give: such are the two principal motives for going to law. Their subdivisions are manifold.

5. Lawsuits are of two kinds, according as they originate in (demands regarding) wealth or in injuries. Lawsuits originating in wealth are (divided again) into fourteen sorts; those originating in injuries are of four sorts.

6. Lending money at interest; deposits (and treasure-trove); (the title) called invalid gifts; concerns of a partnership; non-payment of wages; disobedience; disputes concerning land; sale without ownership;

7. Revocation of sale and purchase; breach of

3, 4. *Smṛitiḥ. prayakṣheḥ keḍ bhrītim svāmī bhrīyânām karma kurvatām | na kurvanti ka bhrīyās ket tatra vâdah pravartate || himsâm yo kurute kaskid deyam vâ na prayakṣhati | dve hi sthâne vivâdasya tayor bahutarâ gatiḥ ||*

5-9. *Smṛitiḥ. dvipâdo vyavahârah syâd dhanahimsâsamudbhavaḥ | dvisaptako rthamûlas tu himsâmulas katurvidhaḥ || kusîdanidhyadeyâkhyam sambhûyotthânânam eva ka | bhrīyadânânam asu-srûshâ bhûvâdo svâmivikrayaḥ || krayavikrayânusayaḥ samayâtikra-*

agreements; the law between wife and husband; theft; the law of inheritance; and gambling with dice.

8. These are the fourteen titles of law that originate in (demands regarding) wealth. There are again various subdivisions of them, owing to the diversity of lawsuits.

9. The two kinds of insult; violence; and criminal connexion with the wife of another man: these have been declared by *Bṛihaspati* to be the four titles of law originating in injury.

10. Each of them embraces again several different kinds, according as they are of a superior, middling, or of the lowest description. Thus are those four subdivided each in its turn.

11. Those who understand the eighteen titles of law, as proclaimed in the law-books, to be at the root of all lawsuits, are intelligent men indeed.

12. No sentence should be passed merely according to the letter of the law. If a decision is arrived at without considering the circumstances of the case, violation of justice will be the result.

13. The issue of a lawsuit may convert a thief into an honest man, and an honourable man into an

mas tathâ | strîpumsayogaḥ steyam ka dâyabhâgo-kshadevanam ||
 evam arthasamutthâni padâni tu katurdasa | punar eva prabhinnâni
 kriyâbhedâd anekadhâ || pârushye dve sâhasas ka parastrîsam-
 grahas tathâ | himsodbhavapadâny evam katvâry âha brîhaspatiḥ ||

10, 11. *Smṛitik.* hînamadhyottamatvena prabhinnâni prîthak
 prîthak | visesha eshâm nirdish'tas katurnâm apy anukramât ||
 padâny ash'âdasaitâni dharmasâstroditâni tu | mûlam sarvavivâdâ-
 nâm ye vidus te parîkshakâḥ ||

12-14. *Vîram.* p. 18. See *Nârada I*, 1, 42, 71 (above, pp. 16, 23). For the story of *Mândavya*, who was falsely charged with theft, see *ibid.* p. 16, note.

offender. *Mândavya* acquired the reputation of a thief in consequence of a decision passed without considering the circumstances of the case.

14. Dishonest men may seem honest, and honest men dishonest, so that wrong notions may be easily created; therefore sentences should be passed after due consideration of the circumstances only.

15. By killing an aggressor, a man does not commit sin by any means. He who takes the life of one approaching with intent to murder him is no offender.

16. If one abused returns the abuse, or if one struck strikes again, and kills the assailant, such a man commits no offence.

17. He who refrains from killing an aggressor who abuses him aloud, and is ready to murder him, (because the aggressor) is a virtuous man (otherwise) and practices regularly the recitation of the Veda, obtains the same reward as for performing a horse-sacrifice.

18. The judgment in a doubtful matter is declared to be of four sorts, according as it is based on moral law, or on the issue of the case, or on custom, or on an edict from the king.

19. Each of these has been declared to be twofold by the sages, owing to the diversity of legal affairs.

20. When the matter in dispute has been decided according to equity, after due deliberation, and

15. *Vîram*. p. 24.

16. *Raghu*andana, p. 9.

17. *Vîram*. p. 25.

18. *Vîram*. p. 8. See *Nârada* I, 1, 11 (above, p. 7).

19-24. *Vîram*. pp. 118, 119. I read, with *Smṛitîk.*, *divyair vâ sodhita* in 21; *pramânaniskito* in 22; and *pramânarahitâ* in 24.

20, 21. The first kind is when the truth has been duly ascer-

thoroughly examined by means of oaths (or ordeals), it should be known to be a judgment based on moral law.

21. When the defendant admits the accusation, or furnishes clear evidence of his innocence through performing an ordeal, it should be known to be another sort of a decision based on moral law.

22. A sentence founded on an examination of the evidence is termed (a decision based on) the issue of the case. When (the defendant) tells a lie, or makes no answer, it is also termed (a decision based on the issue of the case).

23. When a sentence is passed according to the inference (to be drawn from circumstantial evidence), it is termed (a decision based on) custom. When it is passed according to local usages, it is termed another sort (of a decision based on custom) by the learned in law.

24. A decision based on an edict from the king is ordained, first, for those cases in which no evidence is forthcoming. When the law-books or the judges are at variance with one another, the second sort (of this species of decisions) is said to be applicable.

25. When a sentence is passed exclusively according to the letter of the law, it should be con-

tained and a sentence passed accordingly. The second kind is when no examination of the facts takes place, the question being settled either through a confession on the part of the defendant, or through the performance of an ordeal. *Smṛitīkandrikā*.

22. The evidence here referred to can be human evidence only, i. e. the deposition of witnesses, documents, or possession, divine test being referred to in the two preceding texts. *Smṛitīk*.

23. 'Inference,' such as when a man is caught with a firebrand in his hand. *Smṛitīk*. See Nārada I, 18, 172-175 (above, pp. 85, 86). 25-27. *Vīram*. pp. 120, 121.

sidered as (a decision based on) the issue of the case. Moral law is overruled by it.

26. When a decision is passed in accordance with local custom, logic, or the opinion of the traders (living in that town), the issue of the case is overruled by it.

27. Where the king, disregarding established usage, passes a sentence (according to his own inclination), it is (called) an edict from the king, and local custom is overruled by it.

28. The time-honoured institutions of each country, caste, and family should be preserved intact; otherwise the people would rise in rebellion; the subjects would become disaffected towards their rulers; and the army and treasure would be destroyed.

29. The maternal uncle's daughter is taken in marriage among the twice-born inhabitants of the South. In the central country (Madhyadesa), they become labourers or artizans, and eat cows.

30. The inhabitants of the East are fish-eaters, and their women engage in promiscuous intercourse. In the North the women take intoxicating drinks, and in their courses have intercourse with men.

31. The people of Khasa marry the widow of a brother who has died. These men are not subject to the performance of a penance or to punishment on account of any such offence.

32. Thus has legal procedure with its manifold

28-31. *Vîram*. p. 29; *May*. p. 5. I read *pûrve* for *sarve* in 30, with *Mayûkha*, *Kalpataru*, and other compilations. *Baudhâyana* I, 2, 1-7.

32. *Smṛitīk. evam kânekadhâ prokto vyavahâro manîshibhih | tasyâ nirnayakṛid râgâ brâhmanas ka bahusrutaḥ ||*

ramifications been represented by the sages. The sentence in a legal controversy has to be passed by the king or by a Brahman thoroughly versed in the Veda.

33. Against whomsoever an accusation has been raised, whether founded on fact or on suspicion, let the king summon that man either through (a letter signed with) his seal or through an attendant.

34. For one timorous, or idiotic, or mad, or over-aged, and for women, boys, and sick persons, a kinsman or appointed agent should proffer the plaint or answer (as their representative).

35. When a man who has a family and relations does not appear before the court through pride after having been summoned, (the king or judge) should inflict on him punishment corresponding to the nature of the accusation.

36. (The plaintiff) is not permitted to put under restraint a person engaged in study; nor one about to marry; nor one sick; nor one afflicted by sorrow; nor one insane; nor an infant; nor one intoxicated; nor a very old man; nor one charged with a crime; nor one engaged in the king's service; nor one performing a vow;

37. Nor a soldier at the time of battle; nor a husbandman at the time of harvest; nor one in a perilous situation; nor a (respectable) woman; nor one not his own master.

38. A king thus obeying the dictates of law in passing sentences, acquires widespread renown in

33. Vîram. p. 52.

35. May. p. 8.

38. Vîram. p. 125.

34. Vîram. p. 53.

36, 37. Vîram. p. 56.

this world and becomes an associate of great Indra (after death).

39. He who effects a perfect cure, by the application of surgical instruments smeared with the ointment of law, of persons blinded by ignorance, and whose eyes are veiled with a mist of doubt,

40. Obtains fame and royal favours in this world and a residence in heaven. Therefore should a decision be passed for those who are blinded by doubt.

41. An officiating priest and one entrusted with the trial of causes are declared to be equal. In a sacrifice, the sacrificer acquires religious merit; in a lawsuit, (the parties obtain) defeat or victory.

42. He who, divesting himself of avarice, hatred, and other (evil propensities), passes sentences according to the dictates of law, obtains the same reward as for the performance of a sacrifice.

III. THE PLAINT.

1. The part called the declaration; the part called the answer; the part called the trial; and the part called the deliberation of the judges regarding the onus probandi: these are the four parts of a judicial proceeding.

2. The plaint is called the (first) part; the answer is the second part; the trial is the third part; and the judgment is the fourth part.

39, 40. Raghunandana, p. 3. I read *svargatim* for *sadgatim*, with *Smṛitīk.*

41. Raghunandana, p. 7.

42. *Smṛitīk.* *lobhadveshādikam tyaktvâ yaḥ kuryât kâryanirnamyam | sâstroditena vidhinâ tasya yagñaphalam bhavet ||*

III, 1, 2. Viram. pp. 59, 60.

3. In the case of a denial, (a judicial proceeding) consists of four parts; likewise, in the case of a special plea; the same rule applies to a plea of former judgment; but in the case of a confession, it has two parts only.

4. When plaintiff and defendant come together, each claiming to be first, their declarations should be received in the order of their castes, or after considering their respective grievances.

5. Those acquainted with (the true nature of) a plaint declare that to be a (proper) plaint, which is free from the defects of a declaration, susceptible of proof, provided with good arguments, precise, and reasonable,

6. Brief in words, rich in contents, unambiguous, free from confusion, devoid of improper arguments, and capable of meeting opposite arguments;

7. When a plaint of this description has been proffered by the plaintiff, the defendant should tender an answer conformable to such plaint.

3. Vîram. p. 59.

4. Vîram. p. 60. 'When Brahmans and others have entered the judicial assembly simultaneously, the four parts of a judicial proceeding should be instituted in the order of their castes, the Brahman's cause being tried first of all by the king, then the Kshatriya's, and so on, in the order (of their castes). If the comparative importance or heaviness of the respective grievances of each party differs, the order in which the causes are tried is not made to depend either on the relative priority of each declaration, or on the respective caste of the parties. If they are all of equal caste, the relative priority of the declarations is taken into account. If the declarations have been simultaneous, and if the litigants are equal in caste, and their grievances are also equal, the order is made to depend on the choice of the judge and of the assessors of the court.' Vîram.

5-7. Raghunandana, p. 12.

8. The above and other qualities (of a plaint) having been duly considered, a plaint (containing them) may be regarded as a proper plaint; one not answering this description is a mere semblance of a plaint.

9. That (plaint) which (mentions an act that) has never been done by anybody is called impossible; one referring to a slight offence, or to a trifling sum, is called unmeaning; one in which neither a demand nor a grievance is referred to, should be known to be purposeless.

10. (Or) that plaint is unmeaning which does not concern one of the (fourteen) titles of law relating to the lending of money at interest and so forth; and that plaint is purposeless which does not concern one of the (four) titles of law relating to insult and so forth.

11. (When a claimant declares): This man is bound to give me a bow made of the horn of a hare, the wise declare such a plaint to be unreasonable and unsusceptible of proof.

12. When the interests of a town or kingdom are violated by bringing a certain plaint before a chief judge or before the king, it is termed a plaint contrary (to equity).

13. When a man, (whether) acting as plaintiff (or as defendant), is forsaken by his strength on being about to make a statement in a suit, it is proper

8. *Smṛitiḥ. evamādi guṇān samyag ālokya ka suniṣkītam | pakshaḥ kṛtāḥ samādeyaḥ pakshābhāsas tv ato nyathā ||*

9. *Vīram. p. 66.*

10. *Vīram. p. 67.* Regarding the titles of law, see *Bṛihaspati*, II, 5-9.

11, 12. *Vīram. p. 67.*

13. *Raghunandana, p. 11.*

that a delay should be granted to him, according to circumstances and according to his ability.

14. Let him remove superfluous statements and amplify incomplete ones, and let him write down (everything) on the floor, till the (whole) matter has been definitely stated.

15. The plaintiff is at liberty to alter his declaration, when it is defective or redundant, till the defendant has tendered his answer in the presence of the judges.

16. When the plaintiff through timorousness does not dare to speak, it devolves on the judges to amend his declaration, according to the circumstances of the case.

17. A charge founded on suspicion, (one founded on) fact, a petition regarding the recovery of a debt, and claiming a fresh trial of a cause previously tried: thus a plaint is represented as fourfold.

18. The plaint is fourfold, and so is the answer; the judgment is declared to be of four kinds also; by some it is represented as being of eight sorts.

19. Suspicion is explained to mean doubt; fact is (said to be) an insight into the real nature of a matter; a petition regarding the recovery of a debt is (plea of) error; a fresh trial is the repetition of a previous trial.

IV. THE ANSWER.

1. When the plaint has been well defined, a clear exposition given of what is claimed and what not, and the meaning of the plaint fully established, (the

14. Vîram. p. 70.

16-19. Vîram. p. 71.

15. Raghunandana, p. 14.

IV, 1. Vîram. p. 72.

judge) shall then cause the answer to be written (by the defendant).

2. If the defendant does not make an answer fully meeting the contents of the plaint, he shall be compelled to pay by gentle remonstrances, and the other (two) methods (to be indicated directly).

3. Kindly speeches are gentle remonstrances; intimidation is pointing out dangers; force consists of depriving one of his property, or striking, or binding him.

4. When a man makes no answer, though both (mild and harsh methods) have been adopted against him, he is defeated, and liable to punishment after the lapse of a week.

5. When the defendant asks for a delay through (natural) timidity, or terror, or because his memory has been deranged, the delay shall be granted to him.

6. He should be allowed (a delay extending to) one day, or three days, or five days, or seven days, or a fortnight, or a month, or three seasons (equalling six months), or a year, according to his ability.

7. The insane and intoxicated, those abandoned by their relatives or friends, those charged with a heavy crime, idiots, persons cast off from society, and infants, should be considered unable to deliver an answer.

8. One should not cause to be written an answer

2-4. *Vîram*. p. 74.

5, 6. *Vîram*. p. 138.

7. *Tod*. unmattamattanirdhûtâ mahâpâtakadhîshîtâh | gadâpa-viddhabâlâs ka vigñeyâs te niruttarâh || Such persons should appoint an agent to deliver the answer in their place. *Tod*.

8. *Smrîtik*. prastutânyam ka madhyastham nyûnâdhikam asam-gatâm | avyâpyasâram samdigdham pratipaksham na lekhayet ||

which wanders from the subject, or which is not to the point, too confined or too extensive, or not in conformity with the plaint, or not thorough enough, or absurd, or ambiguous.

9. If (the defendant) confesses, he shall state his confession; in the case of a denial, he shall cause (his denial) to be written; and so (should he record) his special plea in an answer by special plea, and his previous victory in an answer by previous victory.

10. A denial called forth by fear (of punishment) is contemptible in the eyes of men familiar with law; a true confession is declared to be meritorious.

11. In a plea by victory in a former trial, a true statement is praised by the virtuous; a false one is sinful and causes the defeat of the defendant.

V. THE TRIAL.

1. When litigants are quarrelling in a court of justice, the judges, after examining the answer, shall adjudge the burden of proof to either of the two parties.

2. The judges having heard both the plaint and the answer, and determined to which party the burden of proof shall be adjudged, that person shall substantiate the whole of his declaration by documents or other proofs.

3. The plaintiff shall prove his declaration, and

9-11. *Tod. tathye tathyam prayuṅgīta mithyāyām kâpi lekhalet | kâranam kâranopete prâggaye tu gayam tathâ || bhayadrīsh/odbhavâ mithyâ garhitâ sâstravedibhiḥ | satyâ sampratipattis tu dharmyâ sâ parikīrtitâ || prâṅnyâyakarane tathyam slâghyam sadbhīr udâhṛitam | viparītam adharmyam syât pratyarthī hânim âpnuyât ||*

V, 1-3. *Vīram. pp. 92, 93.*

the defendant his special plea; victory in a previous trial shall be proved by a document recording that victory.

4. When people try to excite fear, or to cause dissension, or terror (among the judges or witnesses), or to throw (other) obstacles in their way, such litigants lose their suit.

5. One who absconds after receiving the summons; one who remains silent; one convicted (of a crime) by the (depositions of) witnesses; and one who admits the correctness of the charge: such are the four losers of their suit.

6. One who absconds loses the suit after three fortnights; one who remains silent, after a week; and one convicted by the witnesses, or confessing his crime, all at once.

7. He who announces witnesses and does not produce them afterwards, within thirty days or three fortnights, suffers defeat in consequence.

8. When a person has promised to appear at a trial or for the performance of an ordeal, and does not make his appearance, it must not be viewed as fraud.

9. If an obstacle caused by fate or the king should intervene during that time, he does not lose his cause through the mere non-observance of the fixed period.

10. Those (litigants) who make a private arrangement with one another, when the plaint and the

4. *Viram*. p. 99.

5. *Viram*. p. 102.

8. *Viram*. p. 103. I read *kr̥itvopasthānanis̥kayam* | with *Smṛitīkandrikā*.

9. *Viram*. p. 103.

6, 7. *Viram*. p. 102.

10. *Viram*. p. 103.

answer have been delivered, and the judgment is about to be given, shall be compelled to pay twice the amount (in dispute) as a fine.

11. When the plaint and the answer have been reduced to writing, and the trial has commenced, the two parties may be welded together like two pieces of red-hot iron.

12. While both parties are in suspense there regarding the (approaching declarations of the) witnesses and judges, those litigants are clever who arrive at a mutual understanding while the uncertainty lasts.

13. When the evidence is equally strong on both sides, and law and custom divided, in such a case a mutual reconciliation between the two parties through royal order is recommended.

14. Gain of religious merit and wealth, and renown accrues to the ruler from an equitable decision; the witnesses and assessors are exempt from censure, and enmity ceases,

15. When an unfavourable or a favourable decree, punishment or praise, renown or infamy has been obtained; whereas (continued) strife among men leads to sin.

16. Therefore should an intelligent (prince) enact that which has been propounded by dutiful and equitable associations, corporations, and chief judges, (in an impartial spirit) devoid of malice and avarice.

11-16. *Vīram*. p. 104. Read *dvayoḥ samtaptayoḥ* in 11, with *Smṛṭīkandrikā*.

12. The translation follows the gloss of the *Kalpataru*, as quoted in the *Vīramitrodaya*. The *Ratnākara* (*ibid.*) translates the first half as follows: 'When the witnesses and judges are at variance with one another.'

17. Evidence is declared to be twofold, human and divine. Each of these is again divided into a number of branches by sages declaring the essence of things.

18. Human evidence is threefold, as it consists of witnesses, writings, and inference. Witnesses are of twelve sorts; writings are declared to be tenfold; inference is twofold; divine test is ninefold.

19. In the case of an answer of the first or third kinds, divine and human proof should be employed; but in the case of an answer of the fourth kind, an attested document recording the success of either party should be produced.

20. In the cases of a plea of former judgment and of a special plea, the defendant shall prove the contents of his answer; but in the case of a denial, the plaintiff shall prove the contents of the plea.

VI. THE JUDGMENT.

1. He is said to have gained his cause in this world who has proved his claim, and has been honourably dismissed by the chief judge and the other judges, and received a document recording his victory.

2. Punishment corresponding to the nature of the offence shall be ordained there (in the decree).

17, 18. *Vīram*, p. 110.

19. *Smṛitiḥ*. prathame vā trītiye vā pramāṇam daivamānusham |
uttare syâk katurthe tu sasâkshi gayapatrakam || An answer of the
first kind is a denial; an answer of the third kind is a confession;
an answer of the fourth kind is a plea of former judgment.

20. *Smṛitiḥ*. prâṇnyâye pratyavaskande pratyarthî sâdhayet
svakam | uttarârtham pratigñârtham arthî mithyottare punaḥ ||

VI, 1. *Raghunandana*, p. 60.

2. *Vīram*, p. 124.

3. Whatever has been transacted in a suit, the plaint, answer, and so forth, as well as the gist of the trial, should be noted completely in the document recording the success (of the claimant or defendant):

4. When the king gives the victorious party a document recording the plaint, answer, and trial, and closing with the sentence, it is called a document recording the success (of either party).

5. When a man does not feel satisfied with a decision passed by meetings of kindred or other (resorts for the redress of wrongs), the king should revise the decision declared by them, and institute a fresh trial, if it should prove unjust.

6. After having considered the matter in common with many Brahmans well versed in science, he should punish the wicked men, who were acting as judges in the former trial, together with the victorious party.

7. One appointed by his master to look after his expenses and to superintend (transactions regarding) tillage, loans, and trade, is called a manager.

8. Whatever has been transacted by him is valid, whether relating to receipt, non-receipt, expenses or income, and whether it may have been transacted at home or abroad. The master must not annul such transactions as these.

3, 4. Raghunandana, p. 60. I read *pūrvottarakriyâyuktam* in 4-5, 6. *Vīram*. p. 123.

7, 8. *Vīram*. p. 127. Read in 7, *krīshikusādvānigye*. These two texts relate to the subject of valid and invalid transactions, which is generally discussed along with the rules of judicial procedure, and with the *onus probandi* and judgment in particular. They might also have been inserted in the chapter on Master and Servant.

VII. WITNESSES.

1. A subscribing witness, one caused to be written, a secret witness, one who has been reminded, a member of the family, a messenger, a spontaneous witness, an indirect witness, a stranger who has accidentally witnessed the deed,

2. The king, a chief judge, and the (people of the) village : thus have the twelve kinds of witnesses been declared. I am going to declare precisely in order their respective characteristics.

3. He is called a subscribing witness who enters in a deed his own as well as his father's caste, name, and so forth, and his place of residence.

4. He is termed one caused to be written, who has been distinctly entered in the deed, together with the details of the agreement, by the plaintiff when writing a contract of loan or another (contract).

5. He is called a secret witness who is made to listen to the speeches of the debtor, standing concealed behind a wall, (and relates them) just as they were spoken, (when the debtor tries to deny them.)

6. He is called one reminded who, after having been appointed and invited to be present at a transaction concerning a loan, deposit, purchase, or the like, is repeatedly reminded of it.

7. He is designed as a family witness who is appointed by both parties to witness a deed of partition, gift, or sale, being connected and on good

VII, 1, 2a. May. p. 23. 2b-15. Vīram. pp. 144, 145.

3. I read *gātināmādi*, with *Smṛitīkandrikā*.

6. I read *krayādike*, with *Smṛitīkandrikā*.

terms with both parties, and acquainted with (the rules of) duty.

8. He is denominated a messenger who is a respectable man, esteemed and appointed by both parties, and has come near to listen to the speeches of the plaintiff and defendant.

9. He is a spontaneous witness who declares that he has witnessed the transaction, after having approached the court of his own accord, while a cause is being heard.

10. That witness who communicates what he has heard to another man, at a time when he is about to go abroad, or lying on his deathbed, should be considered as an indirect witness.

11. He also is called an indirect witness who repeats, from his own hearing or from hearsay, the previous statements of actual witnesses.

12. He is called a secret witness to whom an affair has been entrusted or communicated by both parties, or who happens to witness the transaction.

13. The king in person having heard the speeches of plaintiff and defendant, may act as witness if both should quarrel with one another.

14. If after the decision of a suit a fresh trial should take place, the chief judge, together with the assessors, may act as a witness there, but not in any other case.

15. The (people of the) village may no doubt give testimony, even without a special appointment, as to what has been anywhere spoiled or damaged in the boundary line.

11. The reading bhâshatâm in the Vîramitrodaya is a misprint for bhâshate.

16. There should be nine, seven, five, four, or three witnesses; or two only, if they are learned Brahmans, are proper (to be examined); but let him never examine a single witness.

17. Of subscribing and secret witnesses, there should be two (of each sort); of spontaneous, reminded, family witnesses, and indirect witnesses, there should be three, four, or five (of each sort).

18. A single witness even may furnish valid proof, if he is a messenger, an accountant, one who has accidentally witnessed the transaction, or a king, or chief judge.

19. (A witness) should be exhorted by judges acquainted with law, by speeches extolling veracity and denouncing falsehood.

20. Whatever religious merit has been acquired by thee from the time of thy birth to the time of thy death, all that will be lost by thy telling a falsehood.

21. An iniquitous judge, a false witness, and the slayer of a Brahman are pronounced to be criminal in an equal degree; nor is a killer of an embryo or a destroyer of wealth considered as a greater sinner than they are.

22. Knowing this, a witness should give evidence according to truth.

16-18. May. p. 23. The 'accountant' is a species of 'messenger.' Viramitrodaya. Regarding the 'witness who has accidentally witnessed the transaction,' see VII, 12.

19-22. *Tod.* satyaprasamsâvakanair anṛitasyâpavâdanaiḥ | sabh-
yaiḥ sa bodhanîyas tu dharmasâstrapravedibhiḥ || â ganmatas kâ
maranât sukrîtam yadupârgitam | tat sarvam nâsam âyâti anṛitasyâ-
bhisamsanât || kû/asabhyaḥ kû/asâkshî brahmahâ ka samâḥ smṛitâḥ |
bhrûnahâ vittahâ kâishâm nâdhikaḥ samudâhrîtaḥ || evam vidadvâ tat
sâkshî yathâbhûtam vadet tataḥ ||

23. After putting off his shoes and his turban, he should stretch out his right hand, and declare the truth, after taking in his hands gold, cow-dung, or blades of sacred grass.

24. When witnesses summoned (in a suit) are faulty, the opponent may expose them. But a litigant trying to cast a blemish on faultless witnesses is liable to pay a fine to the same amount (as the property in dispute).

25. Whatever faults there may be in a document or in witnesses, they should be exposed at the time of the trial; those cannot be used as valid objections which are declared afterwards.

26. He whose documents or witnesses are objected to in a suit, cannot gain his cause till he has removed the objections raised against it.

27. I will now state, according to the rules of science, which men may be appointed as witnesses, and which others should be avoided as being low wretches.

28. Those may be witnesses who are in the habit of performing religious ceremonies taught in the Vedas and Smṛitis, free from covetousness and malice, of respectable parentage, irreproachable, and zealous in performing austerities, practising liberality, and exhibiting sympathy (with all living creatures).

29. The mother's father, the father's brother, the

23. Vīram. p. 172.

24. May. p. 25. I read arthî, for arthe, with Vīram.

25. May. p. 26.

26. May. p. 27.

27. Smṛitîk. prashṭavyâh sâkshino ye tu vargyâs kaiva narâdhamaḥ | tân aham kathayishyâmi sâmpratam sâstrakoditân || srautas-mârtakriyâyuktâ lobhadveshavivargitâh | kulînâh sâkshino s nindyâs tapodânadayânvitâh ||

29. May. p. 25.

wife's brother and maternal uncle, a brother, a friend, and a son-in-law are inadmissible witnesses in all disputes.

30. Persons addicted to adultery or to drinking, gamblers, those who calumniate everybody, the insane, the suffering, violent persons, and unbelievers cannot act as witnesses.

31. If a witness being summoned does not make his appearance, without being ill, he should be made to pay the debt and a fine, after the lapse of three fortnights.

32. Where the contents of the plaint have been fully corroborated by the witnesses, it is (valid) testimony; in every other case (the plaintiff) will not succeed with his claim.

33. When nothing less (than what has been declared in the plaint) is stated with regard to place, time, age, caste, number, matter, and quantity, the cause should be considered to have been proved.

34. Let him preserve, even by telling a lie, a Brahman who has once sinned through error and is in peril of his life and oppressed by rogues or other (enemies).

35. In a conflict between witnesses, (the testimony of) the majority should be received; when the number is equal (on both sides, the testimony of)

30. Viram. p. 160.

31. Smṛitīk. âhûto yas tu nâgakkhet sâkshî rogavivargitâḥ | rinam damam ka dâpyaḥ syât tripakshât paratas tu saḥ ||

32. Smṛitīk. yatrâsheshâḥ pratigñârthâḥ sâkshibhiḥ prativarnitâḥ | sâkshyam syâd anyathâ tu tam sâdhyârtham na samâpnuyât ||

33. May. p. 29.

34. Smṛitīk. sakrit pramâdâparâdhivipram vyâpadi pîditam | satâdibhir vadhyamânâṃ rakshed uktvânritâny api ||

35. Tod. sâkshidvaidhe prabhûtâs tu grâhyâḥ sâmye gunâdhikâḥ | gunidvaidhe kriyâyuktâs tatsâmye smṛitimattarâḥ ||

the more virtuous ones; when the virtuous (witnesses) are divided, (the testimony of) those specially eminent for the performance of acts of religion; when they are divided, (the testimony of) those endowed with a superior memory.

VIII. DOCUMENTS.

1. The rule regarding the number of witnesses and their respective characteristics has been thus communicated to you; now I will state in order the laws regarding documents.

2. Within a sixmonth's time even, doubts will arise among men (regarding a transaction). Therefore the letters occurring in a writing were invented of yore by the Creator.

3. Writings are declared to be of three kinds, those written by the king, those written in a particular place, and those written (by a person) with his own hand. Their subdivisions again are numerous.

4. Writings proceeding from (ordinary) people are sevenfold, (viz.) a deed of partition, of gift, of purchase, of mortgage, of agreement, of bondage, of debt, and other (such deeds). The king's edicts are of three sorts.

VIII, 1. *Vīram*. p. 188.

2. *Vīram*. p. 188. Hiouen-Thsang (I, 71), the celebrated Chinese pilgrim, reports the Indian tradition that letters were invented by the deity Fan (Brahman). See Führer, *Lehre von den Schriften in Brīhaspati's Dharmasāstra*, p. 27; *Nārada I*, 5, 70 (above, p. 58).

3. *May*. p. 16. The term 'written in a particular place' seems to relate to documents written by a professional scribe and attested by subscribing witnesses. See *Nārada I*, 10, 135 (above, p. 75).

4. *May*. p. 17. The term *âdi*, 'and other (such deeds)', is explained to denote deeds of purification, or of reconciliation, or regarding a boundary, or the rules of a corporation.

5. Where brothers being divided in interests according to their own wish, make a deed of division among themselves, it is called a partition-deed.

6. When a person having made a grant of landed property, records it in a deed as being enduring as long as the moon and sun are in existence, and which must never be cut down or taken away, it is termed a deed of gift.

7. When a person having purchased a house, field or other (property), causes a document to be executed containing an exact statement of the proper price paid for it, it is called a deed of purchase.

8. When a person having pledged movable or immovable property, executes a deed stating whether (the property pledged) is to be preserved, or used, it is termed a mortgage-deed.

9. When (the people of) a village or province execute a deed of mutual agreement, (the purpose of) which is not opposed to the interests of the king, and in accordance with sacred law, it is designed as a deed of agreement.

10. That document which a person destitute of clothes and food executes in a wilderness stating, 'I will do your work,' is termed a deed of bondage.

11. That contract of debt which a man having borrowed money at interest executes himself or causes to be written (by another), is called a bond of debt by the wise.

12. Having given a tract of land or the like, the

5-11. May. p. 16.

12-18. Vīram. p. 192. For specimens of royal grants precisely corresponding to the rules laid down here, see e.g. Dr. Burnell's *Elements of South Indian Palaeography*, pp. 87 foll.

king should cause a formal grant to be executed on a copper-plate or a piece of cloth, stating the place, the ancestors (of the king), and other particulars,

13. And the names of (the king's) mother and father, and of the king himself, (and containing the statement that) 'This grant has been made by me to-day to N. N., the son of N. N., who belongs to the Vedic school N. N.'

14. As being enduring while the moon and sun last, and as descending by right of inheritance to the son, grandson, and more remote descendants, and as a gift which must never be cut down or taken away, and is entirely exempt from diminution (by the allotment of shares to the king's attendants, and so forth),

15. Conveying paradise on the giver and preserver, and hell on the taker, for a period of sixty thousand years, as the recompense for giving and taking (the land).'

16. (Thus the king should declare in the grant), the Secretaries for peace and war signing the grant with the remark, 'I know this.'

17. (The grant) should be provided with (the king's) own seal, and with a precise statement of the year, month and so forth, of the value (of the donation), and of the magistrate. Such a document issued by the king is called a royal edict.

18. When the king, satisfied with the faithful services, valour or other (laudable qualities) of a person, bestows landed or other property on him, it

13. All commentators explain that the name of the particular Veda, such as e. g. the Rig-veda, or the Kaṭṭha branch of the Yagur-veda, should be given which the donee is studying.

is (called) a writing containing a mark of royal favour.

19. That which establishes a claim, recording the four parts of a judicial proceeding and bearing the royal seal, is termed a document of success (or decree).

20. Clever forgers acquainted with place and time will make a writing similar (to the original document). Such (writings) should be examined with great care.

21. Women, infants, the suffering, and persons unacquainted with the art of writing, are deceived by their own relations fabricating documents signed with their names. Such (forgery) may be found out by means of internal evidence and legitimate titles.

22. A document executed by a madman, an idiot, an infant, one who has absconded through fear of the king, a bashful person, or one tormented by fear, is not invalidated (by an impossibility to produce its author).

23. (But, as a rule) a document executed by a dying person, an enemy, one oppressed with fear, a suffering person, a woman, one intoxicated, distressed by a calamity, at night, by fraud, or by force, does not hold good.

24. Where even a single witness entered in a deed is infamous and reproached (by the public voice), or where its writer is held in such estimation, it is called a false document.

19. *Smṛitiḥ*, quoted by Burnell, *Elements of South Indian Palaeography*, p. 100.

20, 21. *Vīram*. p. 197.

22. *Vīram*. p. 198. The translation follows the gloss in the *Vīramitrodaya*.

23, 24. *May*. p. 20.

25. A writing being spoiled by fire, or executed a long time ago, or soiled with dirt, or intended for a very short period only, or containing (a number of) mutilated or effaced syllables, is reckoned as a false document.

26. Let a man show (a document) on every occasion to (meetings of) families, associations (of traders), assemblies (of cohabitants), and other (bodies of persons), and read it out to them, and remind them of it, in order to establish its validity.

27. The acquirer (of landed or other property) should establish the written title (under which he is holding it); his son should establish the fact of possession only. If (the father) has been impeached in a court of justice, the son also should be required to prove the written title.

28. When a loan (recorded in a bond) is not expressly claimed from a debtor who has means enough (to discharge it) and is at hand, the bond loses its validity, as the debt is presumed to have been paid (in that case).

29. A writing which has neither been seen nor read out for thirty years, should not be recognised as valid, even though the (subscribing) witnesses be living.

30. When a man does not produce the bond and omits to ask his debtor (to restore the loan), after

25. Aparârka and Smṛitik., quoted by Führer, No. 29.

26. Vîram. p. 200.

27. Vîram. p. 199.

28-30. Aparârka, quoted by Führer, loc. cit., Nos. 33-35; Smṛitik. ('Kâtyâyana'); *Tod.* In 28, I read *suddharmasaṅkayâ*, for *suddham nâsaṅkayâ*, with *Todarânanda*.

30. The interest on a loan, according to the Indian Law of Debt, ceases on its becoming equal to the principal.

his loan has ceased to yield interest, the bond becomes suspected.

31. A document is certainly not overruled either by witnesses or by an oath (or ordeal), but its validity is diminished by neglect, if it is neither shown nor read.

IX. POSSESSION.

1. This set of rules regarding witnesses and documents has been propounded. The law concerning the acquisition of immovable property and possession will be proclaimed next.

2. Immovable property may be acquired in seven different ways, viz. by learning, by purchase, by mortgaging, by valour, with a wife (as her dowry), by inheritance (from an ancestor), and by succession to the property of a kinsman who has no issue.

3. In the case of property acquired by one of these seven methods, viz. inheritance from a father (or other ancestor), acquisition (in the shape of a dowry), purchase, hypothecation, succession, valour, or learned knowledge, possession coupled with a legitimate title constitutes proprietary right.

4. That possession which is hereditary, or founded on a royal order, or coupled with purchase, hypothecation or a legitimate title : possession of this kind constitutes proprietary right.

31. *Smṛitiś.* and *Aparārka*, quoted by Führer, No. 38.

IX, 1-7. *Vîram.* pp. 203, 204.

1. The *Vîramitrodaya* argues that, although immovable property is principally referred to, the same law applies a fortiori to movable property.

5. Immovable property obtained by a division (of the estate among co-heirs), or by purchase, or inherited from a father (or other ancestor), or presented by the king, is acknowledged as one's lawful property; it is lost by forbearance in the case of adverse possession.

6. He who is holding possession (of an estate) after having merely taken it, occupying it without meeting with resistance, becomes its legitimate owner thus; and it is lost (to the owner) by such forbearance.

7. He whose possession has been continuous from the time of occupation, and has never been interrupted for a period of thirty years, cannot be deprived of such property.

8. That property which is publicly given by co-heirs or others to a stranger who is enjoying it, cannot be recovered afterwards by him (who is its legitimate owner).

9. He who does not raise a protest when a stranger is giving away (his) landed property in his sight, cannot again recover that estate, even though he be possessed of a written title to it.

10. Possession held by three generations produces ownership for strangers, no doubt, when they are related to one another in the degree of a *Sapinda*; it does not stand good in the case of *Sakulyas*.

11. A house, field, commodity or other property having been held by another person than the owner,

5, 6. Col. Dig. V, 6, 384.

8, 9. *Vîram*. p. 209.

10-12. Col. Dig. V, 7, 396.

10-14. *Vîram*. p. 221. *Sapindaship* in this rule includes four generations; the term *Sakulya* is used to denote more remote relations.

is not lost (to the owner) by mere force of possession, if the possessor stands to him in the relation of a friend, relative, or kinsman.

12. Such wealth as is possessed by a son-in-law, a learned Brahman, or by the king or his ministers, does not become legitimate property for them after the lapse of a very long period even.

13. Forcible means must not be resorted to by the present occupant or his son, in maintaining possession of the property of an infant, or of a learned Brahman, or of that which has been legitimately inherited from a father,

14. Nor (in maintaining possession) of cattle, a woman, a slave, or other (property). This is a legal rule.

15. If a doubt should arise in regard to a house or field, of which its occupant has not held possession uninterruptedly, he should undertake to prove (his enjoyment of it) by means of documents, (the depositions of) persons knowing him as possessor, and witnesses.

16. Those are witnesses in a contest of this kind who know the name, the boundary, the title (of acquisition), the quantity, the time, the quarter of the sky, and the reason why possession has been interrupted.

17. By such means should a question regarding occupation and possession be decided in a contest concerning landed property; but in a cause in which

15-17. *Vîram*. p. 222.

16. Read *nâmâghâtâgamam*. 'The title,' the cause of ownership, such as gift. 'The quantity,' of land. 'The quarter of the sky,' a description of the region in which a certain estate is situated. 'The time,' at which the estate was acquired. *Todarânanda*.

no (human) evidence is forthcoming, divine test should be resorted to.

18. When a village, field, or garden is referred to in one and the same grant, they are (considered to be) possessed of all of them, though possession be held of part of them only. (On the other hand) that title has no force which is not accompanied by a slight measure of possession even.

19. Not to possess landed property, not to show a document in the proper time, and not to remind witnesses (of their deposition): this is the way to lose one's property.

20. Therefore evidence should be preserved carefully; if this be done, lawsuits whether relating to immovable or to movable property are sure to succeed.

21. Female slaves can never be acquired by possession, without a written title; nor (does possession create ownership) in the case of property belonging to a king, or to a learned Brahman, or to an idiot, or infant.

22. It is not by mere force of possession that land becomes a man's property; a legitimate title also having been proved, it is converted into property by both (possession and title), but not otherwise.

18. *Vīram*. pp. 221, 222; *Col. Dig.* V, 6, 383.

19, 20. *Ṭoḍ*. bhūmer abhuktir lekhyasya yathākālam adarsanam | asmānanam sākshinām ka svārthahānikarāni ka || tasmād yatnena kartavyam pramānaparipālanam | tena kāryāmi sidhyanti sthāvarāni karāni ka ||

21. *Smṛitik.* na strīnām upabhogaḥ syād vinā lekhyam katham-
kana | rāgasrotriyavitte ka gaḍabāladhane tathā ||

22. *Smṛitik.* bhuktikevalayā naiva bhūmiḥ siddhim avāpnuyāt | āgamenāpi suddhena dvābhyām sidhyati nānyathā ||

23. Should even the father, grandfather, and great-grandfather of a man be alive, land having been possessed by him for thirty years, without intervention of strangers,

24. It should be considered as possession extending over one generation; possession continued for twice that period (is called possession) extending over two generations; possession continued for three times that period (is called possession) extending over three generations. (Possession continued) longer than that even, is (called) possession of long standing.

25. When the present occupant is impeached, a document or witness is (considered as) decisive. When he is no longer in existence, possession alone is decisive for his sons.

26. When possession extending over three generations has descended to the fourth generation, it becomes legitimate possession, and a title must never be inquired for.

27. When possession undisturbed (by others) has been held by three generations (in succession), it is not necessary to produce a title; possession is decisive in that case.

28. In suits regarding immovable property, (pos-

23, 24. *Smṛitik.* pitā pitāmaho yasya gīvek ka prapitāmahaḥ |
trimsat samā yā tu bhuktā bhūmir avyāhatā paraiḥ || bhuktih sā
paurushī gñeyā dvigunā ka dvipaurushī | tripaurushī ka trigunā
parataḥ syāk kīrantanī ||

25. *Smṛitik.* yatrāhartābhiyuktaḥ syāl lekhyam sākshī tadā guruḥ |
tadabhāve tu putrānām bhuktir ekā garīyasī ||

26. *Smṛitik.* bhuktis tripurushī yā ka katurthe sampravartitā |
tad bhogashīratām yāti na prikkhed āgamam kvaḥit ||

27. *Smṛitik.* anishedhena yad bhuktam purushais tribhir eva tu |
tatra naivāgamaḥ kāryo bhuktis tatra garīyasī ||

28. *Smṛitik.* sthāvareshu vivādeshu kramāt tripurushī ka yā |
svatāntraiva hi sā gñeyā pramānam sādhyanirnaye ||

session) held by three generations in succession, should be considered as valid, and makes evidence in the decision of a cause.

29. He whose possession has passed through three lives, and is duly substantiated by a written title, cannot be deprived of it; such possession is equal to the gift of the Veda.

30. He whose possession has passed through three lives and has been inherited from his ancestors, cannot be deprived of it, unless a previous grant should be in existence (in which the same property has been granted to a different person by the king).

31. That possession is valid in law which is uninterrupted and of long standing; interrupted possession even is (recognised as valid), if it has been substantiated by an ancestor.

32. A witness prevails over inference; a writing prevails over witnesses; undisturbed possession which has passed through three lives prevails over both.

33. When an event (forming the subject of a complaint) has occurred long ago, and no witnesses are forthcoming, he should examine indirect witnesses, or he should administer oaths, or should try artifice.

29. *Smṛitiḥ. yasya tripurushâ bhuktiḥ samyag lekhyasamanvitâ | evamvidhâ brahmadeyâ hartum tasya na sakyate ||* The 'gift of the Veda,' i. e. instruction is mentioned as an instance of an inalienable gift.

30. *Smṛitiḥ. yasya tripurushâ bhuktiḥ pâraparyakramâgatâ | na sâ kâlayitum sakyâ pûrvakâk kâsanâd rite ||*

31. *Smṛitiḥ. bhuktir balavatî sâstre py avikkhinnâ kirantanî | vikkhinnâpi hi sâ gñeyâ yâ tu pûrvaprasâdhitâ ||* 'If it has been substantiated by an ancestor,' i. e. if a previous possessor has adduced a legitimate title.

32. Raghunandana, p. 49.

33. Vîram. p. 223.

X. ORDEALS.

1. A forger of gems, pearl, or coral, one withholding a deposit, a ruffian, and an adulterer, shall be tested by oaths or ordeals in every case.

2. In charges relating to a heavy crime or to the appropriation of a deposit, the king should try the cause by ordeals, even though there be witnesses.

3. When a thing has happened long ago or in secret, or when the witnesses have disappeared long ago, or are perjured all of them, the trial should be conducted by having recourse to an ordeal.

4. The balance, fire, water, poison, and, fifthly, sacred libation ; sixthly, grains of rice ; seventhly, a hot piece of gold, are declared (to be ordeals).

5. The ploughshare is mentioned as the eighth kind, the ordeal by Dharma (and Adharma) as the ninth. All these ordeals have been ordained by the Self-existent (Brahman).

6. Truth, a vehicle, weapons, cows, seeds, and gold, venerable gods or Brahmans, the heads of sons or wives :

7. By these have oaths been ordained, which are easy to perform and proper for trifling occasions.

8. When a quarrel between two litigants has arisen regarding a debt or other charge, that ordeal

X, 1-3. *Vîram.* p. 114.

4. *M. Macn.* X, 1, 2 (uncertain); *Vîram.* p. 225.

5. *Vîram.* p. 225. For a description of the ordeal by Dharma and Adharma, see the laws of Pitâmaha.

6, 7. *Vîram.* p. 226. See *Manu* VIII, 114; *Nârada* I, 19, 248 (above, p. 100).

8. *Tod. rinâdishu tu kâryesu visamvâde parasparam | divyam samkhyânvitam deyam purushâpekshayâ tathâ ||*

must be administered which corresponds to the amount (of the sum in dispute) and to the (character or strength of the) individual (to be examined).

9. (The ordeal by) poison should be administered when (property worth) a thousand (*Panas*) has been stolen ; (the ordeal by) fire, when a quarter less than that (or 750, has been stolen).

10. When the charge concerns four hundred, the hot piece of gold should be administered. (When it concerns) three hundred, the grains of rice should be given ; and the sacred libation, (when it concerns) half of that.

11. When a hundred has been stolen or falsely denied, purgation by Dharma should be administered. Thieves of cows should be subjected by preference to the (ordeal by the) ploughshare by the judges.

12. These figures are applicable in the case of low persons ; for persons of a middling kind, double is ordained ; and for persons of the highest rank, the amount has to be fixed four times as high by persons entrusted with judicial affairs.

13. The quantities (of various coins or weights), beginning with a floating particle of dust and ending with a *Kârshâpana*, have been declared by Manu. They are applicable both to ordeals and to fines.

14. A *Nishka* is four *Suvarnas*. A *Pana* of

9-12. *Vîram*. p. 230. I read, with *Smṛitiḥ*, *katuḥsatâbhiyoge* in 10, and *sabhyaiḥ phâlam prayatnataḥ* in 11.

11. Dharma, 'test of right and wrong,' is the ordeal which consists of drawing lots or slips of white and black paper.

12. 'Eminent persons,' through their birth, qualities, or virtue. The same interpretation applies to the two other terms. *Vîram*.

13. *Vîram*. p. 233. See Manu VIII, 131-138.

14, 15. *Vîram*. p. 234. I read *kândikâ* for *kândrikâ* in 11, with *Vîramitrodaya*.

copper is a Kârshika (having the weight of one Karsha). A coin made of a Karsha of copper has to be known as a Kârshika Pana.

15. It is also called an *Andikâ*. Four such are a Dhânaka. Twelve of the latter are a *Suvarna*. That is also called a *Dinâra* (denarius).

16. (The testimony of) witnesses is apt to become invalid, whether it be through affection, anger, or avarice. An ordeal properly administered never loses its validity.

17. When a doubt arises with regard to a document or oral evidence, and when ratiocination also fails, purgation through ordeal (is the proper test).

18. Let an ordeal be administered according to the established rule by persons acquainted with the rule of ordeals. If it is administered against the rule, it is ineffective as a means of proving what ought to be proved.

19. If one who has been subjected to the ordeal by balance goes down on being weighed (for the second time), he shall be held guilty. If he remains level, he shall be balanced once more. If he rises, he gains his cause.

20. Should the scale break, or the balance, or beam, or iron hooks split, or the strings burst, or the transverse beam split, he would have to be declared guilty.

15. Nearly identical with Nârada, Appendix, 62 (p. 232).

16. *Vîram*. p. 242.

17. *Smṛitik.* likhite sâkshivâde ka samdeho yatra gâyate | anu-mâne ka sambhrânte tatra daivam visodhanam ||

18. *Tod.* yathoktavidhinâ deyam divyam divyavisâradaiḥ | ayathok-tapradattam tu na satyam sâdhyasâdhane ||

19: *Vîram*. p. 253.

20. *Vîram*. p. 254.

21. (In the ordeal by water) he should immerse the individual in water and discharge three arrows.

22. He is acquitted (in the ordeal by poison) who has digested poison, which has been given to him according to rule, without the application of spells or antidotes. Otherwise he should be punished and compelled to pay the sum in dispute.

23. To whatsoever deity the accused happens to be devoted, let (the judge) bathe the weapon of that deity in water, and give him to drink three handfuls of it.

24. He to whom no calamity happens, within a week or a fortnight, (either to himself or) to his son, wife or property, is innocent beyond doubt.

25. Let a man chew grains of rice after having kept a fast and purified himself, at a time when the sun is not visible. He is acquitted if what he spits out is pure; but if it be mixed with blood, he must be (held) guilty.

26. Let (the person) take a hot piece of gold out of (a mixture of) well-heated oil and butter.

27. He whose fingers' ends do not tremble, and who does not become blistered, is acquitted according to law, as has been declared by Pitāmaha.

28. Iron twelve Palas in weight should be formed into what is called a ploughshare. It should be eight *Āṅgulas* long by four *Āṅgulas* broad.

21. *Vīram.* p. 271.

22. *Vīram.* p. 276.

23. *Vīram.* p. 280.

24. *Vīram.* p. 281.

25. *Vīram.* p. 282. The *Toḍarānanda* attributes to *Bṛīhaspati* another text identical with *Nārada I*, 25, 342 (above, p. 119).

26. *Vīram.* p. 283.

27. *Vīram.* p. 284. The same text occurs in the Nepalese *Nārada*.

28, 29. *Vīram.* p. 285. Some texts relating to this kind of

29. (The ploughshare) having been made red-hot in fire, a thief should be made to lick at it once with his tongue. If he is not burnt, he obtains acquittal. Otherwise he loses his cause.

30. (Images of) Dharma and Adharma, one black and the other white, should be painted on two leaves. Then they should be invoked with prayers producing life or others, and with the Gâyatri or other Sâmans,

31. And should be worshipped with perfumes and with white and black flowers, sprinkled with the five products of a cow, and enclosed in balls made of earth afterwards.

32. After having been made equal in size, they should be placed unobserved in a fresh jar. Then the person should take one ball out of the vessel at the bidding (of the judge).

33. If he takes out Dharma, he is acquitted, and should be honoured by the (appointed) examiners.

XI. THE LAW OF DEBT.

1. A creditor should never lend money without having first secured a pledge of adequate value, or a

ordeal are found in the Nepalese Nârada as well, but they are very incorrectly given in the MS. 'The judge, after having placed a ploughshare of the size stated in the text into a fire kindled for that purpose, should perform the whole general rite of ordeals, beginning with the invocation addressed to Dharma and ending with the fixing of a writing on the head of the person. Then, after addressing the fire with the text previously quoted (of Pitâmaha), "Thou, O Agni," &c., and after causing the person to address the fire with the text previously quoted, "Thou, O Agni, (livest) in all beings" (Yâgñavalkya II, 104), he should cause the person to lick (at the ploughshare).' Vîram., *Smṛitîk.*

30-33. Vîram. p. 286. 'Prayers producing life,' such as e.g. Rig-veda X, 57, 1; Vîram.

XI, 1. May. p. 102; Col. Dig. I, 1, 11. The commentators agree

deposit, or a trustworthy surety; nor without a bond written (by the debtor himself) or attested (by subscribing witnesses).

2. That (loan) is termed *kuśīda* (a loan on interest) which is exacted by persons apprehending no sin (from the act), from a mean (*kutsita*) or wretched (*śīdat*) man, after having been increased to four or eight times the original amount (through the interest accruing on it).

3. An eightieth part (of the principal) accrues as interest on it (every month); and it is certainly doubled by such interest within a third of a year less than seven years (that is to say, within six years and eight months).

4. Interest is declared (by some) to be of four

in explaining the term *ādhi*, 'a pledge,' as denoting a pledge to be used, such as e. g. a cow to be used with her milk, or landed property pledged together with its produce. The term *bandha*, 'a deposit,' is supposed to denote a pledge which must not be used; according to the *Mayūkha*, however, it means a pledge which is not actually delivered to the creditor, the debtor merely promising not to alienate it. 'A pledge of adequate value' is one corresponding in value to the principal together with the interest. *Vīram*. p. 293. The term *sākshimat*, 'attested,' is referred to a debt contracted orally before witnesses, both by Colebrooke (*Dig. I, 1, 11*) and Mandlik (*May. loc. cit.*). This, however, is opposed to the gloss of the *Vīramitrodaya*.

2. *May. p. 102*; *Col. Dig. I, 1, 3*. It is hardly necessary to point out that the etymology here proposed of the term *kuśīda*, 'a loan on interest,' is entirely fanciful. It is really derived from *ku* and *śīda*, and denotes 'that which adheres closely, and cannot easily be got rid of.' The commentators explain the clause 'apprehending no sin' to imply that it is sinful otherwise to accept a gift from an unworthy person.

3. *Smṛtik.*; *Col. Dig. I, 2, 26*. *aśītibhāgo vardheta lābhe dvigu-
natām iyāt | prayuktam saptabhir varshais tribhāgonair na sam-
sayāh ||*

4-8. *Vīram. pp. 294, 295*; *Col. Dig. I, 2, 35*.

sorts ; by others, it is stated to be fivefold ; and by others again, it is said to be of six kinds. Learn their (various) qualities.

5. Kâyikâ (bodily interest) ; kâlikâ (periodical interest) ; *kakravṛiddhi* (compound interest) ; kâritâ (stipulated interest) ; *sikhâvṛiddhi* (hair-interest) ; and bhogalâbha (interest by enjoyment) : such are the six kinds of interest.

6. Kâyikâ interest is connected with bodily labour ; kâlikâ is due every month ; *kakravṛiddhi* is interest on interest ; kâritâ is interest promised by the borrower.

7, 8. When interest is received every day, it is termed *sikhâvṛiddhi* (hair-interest, because it grows every day). Because it grows constantly like hair, and does not cease growing except on the loss of the head, that is to say, on payment of the principal, therefore it is called hair-interest. The use of a (mortgaged) house, or the produce of a field, is termed bhogalâbha (interest by enjoyment).

9. That kâritâ (stipulated) interest has to be paid always, which has been stipulated by the debtor himself, over and above (the ordinary rate of interest), and has been promised in times of distress.

10. When (such special) interest has been stipulated in any other manner, it must not be paid by any means.

11. Hair-interest, bodily interest, and interest by

6. 'Bodily labour,' when the milk of a pledged cow or the strength of a pledged animal for draught or burden is used by the creditor, being, as it were, the interest on his loan. Vîram.

9, 10. Vîram. p. 295 ; Col. Dig. I, 2, 37 ('Kâtâyâna').

10. 'In any other manner,' i. e. by the creditor. Vîram.

11. Vîram. p. 301 ; Col. Dig. I, 2, 35.

enjoyment shall be taken by the creditor so long as the principal remains unpaid.

12. But the use of a pledge after twice the principal has been realised from it, compound interest, and the exaction of the principal and interest (together as principal) is usury and reprehensible.

13. On gold (and other precious metals), the interest may make (the debt) double; on clothes and base metals (such as tin or lead), treble; on grain, it is allowed to rise to four times the original amount, and so on edible plants (or fruit), beasts of burden, and wool.

14. It is allowed to make (the debt) quintuple, on pot-herbs; sextuple, on seeds and sugar-cane; and it may make (the debt) octuple, on salt, oil, and spirituous liquor.

15. Likewise, on sugar and honey, if the loan be of old standing.

16. On grass, wood, bricks, thread, substances from which spirits may be extracted, leaves, bones, leather, weapons, flowers, and fruits, no interest is ordained.

17. A pledge is termed *bandha*, and is declared to

12. Viv. p. 12; Col. Dig. loc. cit.

13-16. Vīram. pp. 298, 300; Viv. pp. 17, 18; May. p. 104; Col. Dig. I, 2, 63, 67, 69.

13. The Vīramitrodaya reads *karmāsthivarmazām*, 'leather, bones, and armour.'

16. The commentators observe that no interest should be exacted, unless there be a special agreement to the purpose. There is, however, another reading (*vṛddhis tu na nivartate*), under which the purport of this rule becomes quite different, viz. that there is absolutely no limit regarding the interest on the articles mentioned in it. This version is in harmony with the corresponding regulations of other legislators.

17. Col. Dig. I, 3, 80; May. p. 105; Vīram. p. 305.

be of four sorts; movable or immovable; to be kept only or to be used; to be released at any time, or limited as to time; stated in writing, or stipulated (orally) before witnesses.

18. Should the creditor, actuated by avarice, use a pledge before interest has ceased to accrue on the loan (on becoming equal to the principal), or before the fixed period has expired, such use shall be stopped.

19. The pledge has to be kept carefully, like a deposit; interest is forfeited in case of its being damaged.

20. A pledge having been used and rendered worthless (by such use), the principal (itself) is lost; if a very valuable pledge be spoiled, he must satisfy the pledger.

21. If a pledge be destroyed by a fatal accident or by an act of the king, the debtor shall be caused either to deliver another pledge or to pay the debt.

22. When the debtor restores the principal and asks for his pledge, it must be restored to him; otherwise the creditor is liable to punishment.

18, 19. Col. Dig. I, 3, 92; *Vîram*. p. 306.

20. Col. Dig. I, 3, 86; *Vîram*. p. 309; *May*. p. 105.

21. Col. Dig. I, 3, 93; *May*. p. 105; *Vîram*. p. 309. This text has been translated according to the *Vîramitrodaya*. Under the reading of the other compilations, payment of the debt together with interest is enjoined. 'A king,' i.e. a ruler who offends against the dictates of religion. *Vîram*.

22. Col. Dig. I, 3, 103; *Vîram*. p. 319. The rule that the principal only needs to be restored concerns a pledge for use. In the case of a pledge for custody, interest has to be paid besides the principal. *Vîram*.

23. When a field or other (immovable property) has been enjoyed, and more than the principal realised by it, then the debtor shall recover his pledge, if the principal and interest has been actually got out of it (by the creditor).

24. (This law applies) when the debtor delivers a field to the creditor, with the following stipulation, 'This (field) shall be enjoyed by you, when interest has ceased (on becoming equal to the principal), that is certain. When the principal has been realised together with the interest, you shall restore (the field) to me.'

25. When the time (for payment) has passed and interest has ceased (on becoming equal to the principal), the creditor shall be owner of the pledge; but, till ten days have elapsed, the debtor is entitled to redeem it.

26. Notice having been given to the debtor's family, a pledge to be kept (only) may be used, after the principal has been doubled; and so may a pledge for a fixed period, on the expiration of that term.

27. When the principal has been doubled, or the stipulated period expired in the case of a pledge delivered for a certain time only, the creditor

23. Col. Dig. I, 3, 108; May. p. 107.

23, 24. Vīram. p. 320. Under a stipulation of this sort, the mortgagee shall recover his pledge, as soon as the creditor has fully realised his demand out of the mortgage, no matter whether he has contributed little or much himself towards its realisation. Vīram. The Ratnākara (p. 29) inserts the following text after 24, 'This lawful rule has been proclaimed with regard to loans on interest and so forth.'

25. Col. Dig. I, 3, 115; Vīram. p. 316.

26. Vīram. p. 316; Col. Dig. I, 3, 119 ('Smṛiti').

27, 28. Vīram. p. 315. 'During that interval,' i. e. before the ten days have elapsed. Vīram. These two texts are elsewhere

becomes owner of the pledge, after having waited for a fortnight.

28. If the debtor should pay the debt during that interval, he may recover his pledge (even then).

29. When the amount of the debt has been doubled (by the interest accruing on it), and the debtor is either dead or no longer present, (the creditor) may take his chattel and sell it before witnesses.

30. Or, its value having been estimated in an assembly, he may keep it for ten days; after which, having realised a sufficient sum to cover his demand, he should relinquish the balance.

31. When a man neither enjoys a pledge, nor obtains it (from the debtor), nor points it out (to others), his written contract (concerning the pledge) is invalid, (just like) a document when the (subscribing) witnesses and debtor are dead.

32. When a house or field has been mortgaged for use and the period (fixed for such use) has not expired, the debtor cannot recover his property, nor can the creditor (recover) his loan.

33. When the (stipulated) period has elapsed, both

attributed to Vyâsa. This is probably the correct view, as it is difficult to reconcile these texts either with the preceding or with the following ones.

29. May. p. 106.

29, 30. *Vîram*. p. 316; *Col. Dig.* I, 3, 121. 'The chattel,' i. e. the pledged commodity. 'A sufficient sum to cover his demand,' i. e. twice as much as the principal. *Vîram*. The balance should be handed over to the relatives of the debtor or to the king. *Colebrooke's Digest* has another text after these two, in which it is stated that the precise amount of the debt should be ascertained by persons skilled in computation.

31. *Col. Dig.* I, 3, 126; *Smṛiti*.; *Ratn.* p. 35.

32, 33. *Viv.* p. 25; *Col. Dig.* I, 3, 105, 118. In ordinary case,

parties are at liberty to do so. But, even before (the stipulated period) has elapsed, they may make an arrangement by mutual consent.

34. Where one field has been mortgaged to two creditors at the same time, it shall belong to that mortgagee who was the first to obtain possession of it.

35. If both have possessed it for an equal time, it shall be held in common (or shared equally) by them. The same rule is ordained in the case of a gift or a sale.

36. Which course should be adopted in cases of a competition between three different acts, the identical property having been sold, mortgaged, and given away on one and the same day?

37. The three parties should divide that lawful property of theirs among themselves in proportionate shares, the two first in the ratio of their respective claims, whereas the donee ought to obtain a full third.

38. The pledgee can never be compelled to restore the pledge against his will, before the whole amount due to him has been paid, nor must (the pledge be obtained from him) by deceit or by (the mode called) *Karita*.

the recovery of the loan, attended by the restoration of the pledge to the pledger, takes place after the lapse of the stipulated period. By mutual consent, however, it may take place before that time.

34. The term 'a field' includes by implication any pledge for use. *Vîram*. p. 312. Other commentators add that possession must have been obtained without forcible means. *Col. Dig.* I, 3, 132.

35. *Smṛitiġ.*; *Col. Dig.* I, 3, 133; *Ratn.* p. 37.

36, 37. *Vîram*. p. 314 ('*Vasish/ha*'); V. T.

38. *Ratn.* p. 27; *Col. Dig.* I, 3, 102. Regarding the mode called *Karita* or *Âkarita*, see below, XI, 58.

39. For appearance, for confidence, for payment, and for delivering the assets of the debtor : it is for these four different purposes that sureties have been ordained by the sages in the system (of law).

40. The first says, 'I will produce (that man) ;' the second (says), 'He is a respectable man ;' the third (says), 'I will pay the debt ;' the fourth (says), 'I will deliver his assets.'

41. If the debtors fail in their engagements, the two first (sureties themselves, but not their sons) must pay the sum lent at the appointed time ; both the two last (sureties), and in default of them their sons (are liable for the debt), when the debtors break their promise (to pay the debt).

42. The creditor should allow time for the surety to search for a debtor who has absconded ; a fortnight, a month, a month and a half, according to (the distance of) the place (where he is supposed to be hiding himself).

43. (Sureties) must not be excessively harassed ; they should be made to pay the debt by instalments ;

39. Col. Dig. I, 4, 142 ; Vîram. p. 321 ; Viv. p. 27. The author of the last-mentioned work reads *rîne* dravyârpane for *rînidravyârpane*, which reading he refers to as the traditional one, and defines the fourth kind of surety to be one who vouches for the return of articles lent for use, such as ornaments for a festivity.

40. May. p. 107. The first surety promises to produce a debtor, who is likely to abscond ; the second vouches for the debtor's honesty, declaring that he is a virtuous man, who will not deceive the creditor ; the third promises to pay the debt himself together with the interest, if the debtor should fail to pay it ; the fourth promises to deliver his movable property, such as household furniture, in the same case.

41. May. p. 107.

42, 43. Vîram. pp. 323, 328 ; Col. Dig. I, 4, 148 ; Ratn. p. 45.

they must not be attacked when the debtor is present : such is the law regarding sureties.

44. When (a surety), being harassed, pays a proved debt which he has vouched for, (the debtor) shall pay him twice as much, after the lapse of a month and a half.

45. Should foolish (sureties) in good faith pay the debt, though not required to do so, or on being required to pay a different debt, how and from whom can they recover that sum ?

46. By whom, to whom, and how, should, or should not, be paid a loan which has been received from the hands of another man in the shape of a loan on interest, will now be declared.

47. A loan shall be restored on demand, if no time has been fixed (for its restoration) ; or on the expiration of the time (if a definite period has been fixed) ; or when interest ceases (on becoming equal to the principal). If the father is no longer alive, (the debt must be paid) by his sons.

48. The father's debt must be paid first of all, and after that, a man's own debt ; but a debt contracted by the paternal grandfather must always be paid before these two even.

49. The father's debt, on being proved, must be paid by the sons as if it were their own ; the grandfather's debt must be paid (by his son's sons) without

44. Viram. p. 328.

45. Ratn. p. 46 ; Col. Dig. I, 4, 163.

46. Ratn. p. 47 ; Col. Dig. I, 5, 166.

47. Ratn. p. 47 ; Col. Dig. I, 5, 166 ; Viv. p. 32.

48. Ratn. p. 47 ; Col. Dig. I, 5, 167 ; May. p. 112.

49. May. p. 112 ; Col. Dig. I, 5, 167. 'As if it were their own,' i. e. with interest. Ratn.

interest; but the son of a grandson need not pay it at all.

50. When a debt has been incurred, for the benefit of the household, by an uncle, brother, son, wife, slave, pupil, or dependant, it must be paid by the head of the family.

51. Sons shall not be made to pay (a debt incurred by their father) for spirituous liquor, for losses at play, for idle gifts, for promises made under the influence of love or wrath, or for suretyship, nor the balance of a fine or toll (liquidated in part by their father).

52. The liability for the debts devolves on the successor to the estate, when the son is involved in calamity; or on the taker of the widow, in default of a successor to the estate.

53. Debts contracted by the wives of distillers of spirituous liquor, hunters, washermen, herdsmen, barbers or the like persons, shall be paid by their protector; they were contracted for the affairs of their husbands.

54. When (a debtor) has acknowledged a debt, it may be recovered from him by the expedients of friendly expostulation and the rest, by moral suasion,

50. Ratn. p. 54; Col. Dig. I, 5, 189; Viv. p. 39.

51. Ratn. p. 57; Col. Dig. I, 5, 201; May. p. 113. Regarding promises made under the influence of love or wrath, see Kâtyâyana X, 53, 54.

52. Ratn. p. 64; Col. Dig. I, 5, 174; May. p. 114; Viv. p. 37.

53. Vîram. p. 354 ('Kâtyâyana'); Col. Dig. I, 5, 217; Ratn. p. 60. 'Protector' means husband. Ratn. 'Barbers,' nâpita, are referred to according to the reading of the Ratnâkara. The Vîramitrodaya reads nâvika, 'sailors,' which reading is mentioned as a varia lectio in the Ratnâkara. Colebrooke has 'shepherds.'

54. Col. Dig. I, 6, 244; May. p. 109.

by artful management, by compulsion, and by confinement at his house.

55. When a debtor is caused to pay by the advice of friends or kinsmen, by friendly remonstrances, by constant following, or by (the creditor) starving himself to death, it is termed moral suasion.

56. When a creditor, with a crafty design, borrows anything from his debtor, for his own use, or withholds an Anvâhita deposit or the like, and thus enforces payment of the debt, it is termed artful management.

57. When a debtor is fettered and conducted into (the creditor's) own house, where he is compelled to pay the debt by beating or other (forcible) means, it is called compulsion.

58. When a debtor is made to pay by confining his wife, son or cattle, and by watching at his door, it is termed Âkarita (the customary mode).

59. An indigent debtor may be taken to his own house by the creditor and compelled to do work there, such as distilling spirits and the like; but a Brahman must be made to pay gradually.

55. Col. Dig. I, 6, 236; May. p. 109; Ratn. p. 67; Viv. p. 43. The term prâya or prâyopavesana corresponds without doubt to the modern custom of Dharma, or 'fasting upon' a debtor, when the creditor places himself before the debtor's house and threatens to starve himself to death, unless the debt be paid. It is true that some commentators interpret prâya by 'importunate demands' (prârthanâbhûlya or prârthanâ).

56. Col. Dig. I, 6, 238; May. p. 109, &c. 'With a crafty design,' as e. g. when valuable ornaments are borrowed from the debtor, on the pretence of using them at a festivity. 'An Anvâhita deposit' is an article deposited for delivery to another person. Vîram. p. 333.

57. Col. Dig. I, 6, 240.

58. Col. Dig. I, 6, 239.

59. Ratn. p. 71; Col. Dig. I, 6, 246.

60. When the time fixed (for payment) has elapsed, and the interest has ceased (on becoming equal to the principal), the debtor may either recover his loan or cause a new bond to be written in the form of compound interest.

61. As compound interest is taken on the doubled principal, so does the use of a pledge (become a new principal), the debt together with the interest being considered as the (new) principal.

62. This rule concerns an acknowledged (debt); but (a debtor) denying (his liability) shall be compelled to pay, on the debt being proved in a (judicial) assembly by a document or by witnesses.

63. (A debtor) claiming judicial investigation in a doubtful case, shall never be put under restraint (by the creditor). He who puts under restraint one not liable to such treatment, shall be fined according to law.

64. A debtor who makes a declaration in this form, 'What may be found to be justly due, that I will pay,' is termed 'one claiming judicial investigation.'

65. When there is a difference of opinion between the two parties regarding the nature (of the loan), or the number or the like, or the (amount of) interest,

60. May. p. 110; Col. Dig. I, 6, 255. The new bond is to be one in which the interest is calculated on the interest added to the principal, i. e. on the doubled principal.

61. Ratn. p. 72; Col. Dig. I, 6, 259. The comparison here proposed relates to the case when a pledge for use has been accidentally destroyed, and a new bond is executed, in which the interest is calculated on the principal together with the lost usufruct.

62. Ratn. p. 75; May. p. 110; Col. Dig. I, 6, 160.

63. May. p. 110; Col. Dig. I, 6, 161.

63-65. Ratn. p. 25.

64. May. p. 110; Col. Dig. I, 6, 162.

65. Col. Dig. I, 6, 163. 'The nature of the loan,' whether it be gold or silver, &c.; 'or the like,' such as the pledge given, &c. Ratn.

or whether the sum be due or not, it is termed a doubtful case.

66. Should a man, after recovering his debt by moral suasion or one of the other modes, fail to receipt it on the bond, or to give a deed of acquittance, it shall yield interest (to the debtor).

XII. DEPOSITS.

1. The Law of Debt, beginning with the delivery of a loan and ending with its recovery, has been declared. Hear, now, the complete set of rules concerning Deposits.

2. When any chattel is deposited in the house of another man, through fear of the king, robbers, or other dangers, or for the purpose of deceiving one's heirs, it is called a Nyâsa deposit.

3. When a chattel enclosed in a cover and marked with a seal (is deposited) without describing its nature or quantity, and without showing it, it is termed an Aupanidhika deposit.

4. Let a man make a deposit, after duly considering the place, house, master of the house, the power, means, qualities, veracity, and kindred (of the depositary).

5. (A deposit) is declared to be of two sorts:

66. Ratn. p. 80 ; Col. Dig. I, 6, 288. The term *vriddhi*, 'interest,' is interpreted 'forfeiture' by a certain number of commentators. This erroneous interpretation has been adopted by Colebrooke. Sir W. Jones has the correct translation.

XII, 1. Ratn. p. 83 ; Col. Dig. II, 1, 1.

2. Ratn. p. 83 ; Col. Dig. II, 1, 6 ; Viram. p. 361.

3. Ratn. p. 83 ; Col. Dig. II, 1, 7 (with several different readings).

4. Ratn. p. 85 ; Col. Dig. II, 1, 14.

5-8. Ratn. pp. 85, 86 ; Col. Dig. II, 1, 19.

attested, or deposited in private ; it must be guarded with the same care as a son ; for it would be destroyed by neglect.

6. The merit of one who preserves a deposit or one who places himself under his protection, is equal to the merit of one who gives (articles made of) gold, or of base metal, or clothes.

7. The sin of those who consume or spoil (by negligence) a bailed chattel is as great as (the sin) of a woman who injures her husband, or of a man who kills his son or his friend.

8. It is the best course not to accept a deposit ; but to destroy it (after having received it) is disgraceful ; after having taken it, a man should keep it carefully and restore it when it has been asked for even once only.

9. A deposit must be returned to the very man who bailed it, in the very manner in which it was bailed ; it must not be delivered to the successor of that man.

10. When a deposit is destroyed, together with the goods of the depositary, by the act of fate or of the king, (the depositary) is not to blame.

11. If the depositary should suffer the deposit to be destroyed by his want of care or indifference, or should refuse to restore it on being asked for it, he shall be made to pay (the value of) it with interest.

6, 9. May. p. 115.

7, 8. Col. Dig. II, 1, 19.

9. Col. Dig. II, 1, 18; Viv. p. 51; Ratn. p. 87.

10. Ratn. p. 88; Col. Dig. II, 1, 23; Vīram. p. 362; May. p. 116.

11. Ratn. p. 90; Col. Dig. II, 1, 34; May. p. 116; Viv. p. 53. The commentators take bheda, 'want of care,' to mean separation of the deposit from the depositary's own property, and bestowing less care on it than on the effects of the depositary.

12. Should any (depository) procure advantage for himself by an article deposited (with him), he shall be fined by the king, and compelled to pay its value together with interest.

13. He who, after receiving a deposit, denies the fact, and is convicted by (the evidence of) witnesses or ordeal, shall be compelled to give up the deposit and to pay an equal amount as a fine.

14. When a dispute arises with regard to a deposit privately made, the performance of an ordeal is ordained for both parties, to establish the facts of the case.

15. The same set of rules applies in the case of a bailment for delivery (to a third person), a loan for use, an article delivered to an artist (such as gold delivered to a goldsmith to be worked by him into an earring), a pledge, and a person offering himself for protection.

XIII. SALE WITHOUT OWNERSHIP.

1. Immediately after deposits, sale by another person than the owner has been declared by *Bhrigu*; listen attentively, I will expound that subject thoroughly.

12. *Ratn.* p. 91; *Col. Dig.* II, 1, 31. The commentators observe that the use here referred to must have been made without the consent of the owner.

13. *Ratn.* p. 93; *Col. Dig.* II, 1, 45.

14. *Ratn.* p. 95; *Vîram.* p. 366. The term 'both parties' is used in order to imply that the ordeal may be performed either by the alleged depositor or depository. *Vîram.*

15. *May.* p. 116; *Ratn.* p. 96; *Viv.* p. 54.

14, 15. *Col. Dig.* II, 1, 12.

XIII, 1. *Ratn.* p. 101; *Col. Dig.* II, 2, 1.

2. An open deposit, a bailment for delivery (Anvâhita), a Nyâsa (sealed) deposit, stolen property, a pledge, or what has been borrowed for use: when any one of these articles has been sold in secret by a man, he is declared a person different from the owner (asvâmin).

3. When the vendor has been produced and has been cast in the suit, (the judge) shall cause him to pay the price and a fine to the buyer and king respectively, and to restore the property to the owner.

4. When the former owner comes forward and makes good his claim to the thing bought, the vendor shall be produced (by the purchaser); by doing so, the purchaser may clear himself.

5. That greedy man who covets another man's property, without having any claim to it, shall be compelled to pay twice the value (of the property claimed) as a fine, if he is unable to prove his claim.

6. When there is no evidence in a suit, the king shall consider the character of the parties and pass a decree himself, according to the equal, greater, or less (credibility of the parties).

7. When a purchase has been made before an assembly of merchants, the king's officers being aware of it (also), but from a vendor whose habitation is unknown; or when the purchaser has deceased:

8. The owner may recover his own property by

2. Ratn. p. 101; Col. Dig. II, 2, 2; Vîram. p. 374.

3. Ratn. p. 102; Col. Dig. II, 2, 30; Viv. p. 57.

4. Ratn. p. 101; Col. Dig. II, 2, 33; Vîram. p. 379.

5. Ratn. p. 106; Col. Dig. II, 2, 46.

6. Ratn. p. 108; Col. Dig. II, 2, 52.

7-9. Ratn. p. 109; Col. Dig. II, 2, 53, 54.

paying half the price (tendered), the custom in that case being that one half of the value is lost to each of the two.

9. A purchase from an unknown (vendor) is one fault (in that case); want of care in keeping it is another; these two faults are viewed by the wise as legitimate grounds of loss to each party.

10. When a man purchases (a commodity) at a fair price, and (the purchase) has been previously announced to the king, there is no wrong about it; but he who makes a fraudulent purchase is a thief.

11. That should be known as a fraudulent purchase which is made at an unreasonably low price, in the interior of a house, outside of the village, at night, in secret, or from a dishonest person.

XIV. CONCERNS OF A PARTNERSHIP.

1. Trade or other occupations should not be carried on by prudent men jointly with incompetent or lazy persons, or with such as are afflicted by an illness, ill-fated, or destitute.

2. A man should carry on business jointly with persons of noble parentage, clever, active, intelligent, familiar with coins, skilled in revenue and expenditure, honest, and enterprising.

3. As an equal, smaller, or larger share (of the

10, 11. Viv. p. 60; Vīram. p. 375; Col. Dig. II, 2, 57. In 10, Colebrooke has 'delivered by the owner in the presence of credible persons.' I have translated the reading of the Vīramitrodāya, 'previously announced to the king.' In 11, the clause 'in secret' is omitted in the Vīramitrodāya.

XIV, 1, 2. Ratn. p. 111; Col. Dig. II, 3, 2; Vīram. pp. 383, 384.

3. Ratn. p. 112; Col. Dig. II, 3, 5.

joint stock) has been contributed by a partner, in the same proportion shall he defray charges, perform labour, and obtain profit.

4. Of those who lend (jointly) gold, grain, liquids and condiments, or the like, the gain shall be equal to their respective shares (of the joint expenditure), whether equal, more, or less.

5. Whatever property one partner may give (or lend), authorized by many, or whatever contract he may cause to be executed, all that is (considered as having been) done by all.

6. They are themselves pronounced to be arbitrators and witnesses for one another in doubtful cases, and when a fraudulent act has been discovered, unless a (previous) feud should exist between them.

7. When any one among them is found out to have practised deceit in a purchase or sale, he must be cleared by an oath (or ordeal); such is the rule in all disputes (of this sort).

8. When a loss or diminution has occurred through fate or the king, it is ordained that it should be borne by all (partners) in proportion to their respective shares.

9. When (a single partner acting) without the assent (of the other partners) or against their express instructions injures (their joint property)

4. Ratn. p. 123; Col. Dig. II, 3, 45.

5-7. Ratn. pp. 123, 113; Col. Dig. II, 3, 45, 9, 10; May. p. 121; Viram. p. 385.

8. Ratn. p. 113; Col. Dig. II, 3, 11. 'A loss,' destruction of the principal; 'diminution,' loss of profits. Ratn.

9. Ratn. p. 113; Col. Dig. II, 3, 12; Viv. p. 61; Viram. p. 385.

through his negligence, he must by himself give a compensation to all his partners.

10. That (partner), on the other hand, who by his own efforts preserves (the common stock) from a danger apprehended through fate or the king, shall be allowed a tenth part of it (as a reward), the remainder being distributed among the other (partners), according to their shares (in the stock).

11. Should any such partner in trade happen to die through want of proper care, his goods must be shown (and delivered) to officers appointed by the king.

12. And when any one comes forward claiming that man's property as heir (to the deceased partner), he shall prove his right to it by (the evidence of) other men, and then let him take it.

13. The king shall take a sixth, a ninth, and a twelfth part respectively from the property of a Sûdra, Vaisya, and Kshatriya; and a twentieth from the property of a Brahman.

14. But after the lapse of three years, if no owner should come forward by any means, the king shall take that property; the wealth of a Brahman he shall bestow on (other) Brahmans.

15. So among (several) persons jointly performing a ceremony, if any one should meet with an accident, his (part of) the ceremony shall be performed by a kinsman of his, or by all his associates (in work).

10. Ratn. p. 114; Col. Dig. II, 3, 15; Viv. p. 61; Viram. p. 386.

11, 12. Ratn. p. 116; Col. Dig. II, 3, 21; Viv. p. 63.

13, 14. Ratn. p. 116; Col. Dig. II, 3, 22; Viv. p. 64.

15. Ratn. p. 117; Col. Dig. II, 3, 29; Viv. p. 65. 'A ceremony,' such as a sacrifice.

16. They (the officiating priests) are pronounced to be threefold; coming (of their own accord), hereditary in the family, and appointed by (the sacrificer) himself; their business should be performed by them accordingly.

17. To a kinsman, relative, or friend one may lend money with a pledge (only); a loan to others must be guaranteed by a surety, or there must be a written contract or witnesses.

18. Gold or silver may be lent according to one's own choice; liquids and condiments, and grain, for a specified period only; it is by local custom that both the loan and its recovery should be regulated.

19. That, however, which has been lent by several persons in common, must be recovered by them jointly; any (such lender) who fails to demand (the loan together with his partners) shall forfeit interest.

20. The law regarding loans has been declared before, (therefore) it is referred to in an abridged form only in the present chapter. Listen to the legal rules regarding cultivators of the soil and other (associates in work), which are declared as follows.

21. Tillage should be undertaken by a sensible

16. Ratn. p. 120; Col. Dig. II, 3, 44. The analogous text of Nārada shows that officiating priests are the persons intended by this rule.

17-26. Ratn. pp. 123, 124; Col. Dig. II, 3, 47-51.

18. In a loan of gold, a definite period for its return need not be specified; but for liquids, &c. the stipulation of a fixed term is necessary. Ratn.

20. 'Declared before,' i. e. in Chapter XI. All the rules declared in that chapter are equally applicable to loans made by an association.

man jointly with those who are his equals in point of cattle, workmen, seeds, and the like, as well as implements of husbandry.

22. They should refrain anxiously from cultivating an enclosed pasture-ground, land adjacent to a town, or to the king's highway, barren soil, and ground infested by mice.

23. That man will enjoy produce who sows fertile land, which has many holes and is wet, capable of irrigation, surrounded by fields on all sides, and cultivated in due season.

24. A sensible cultivator must not admit cattle which is lean, very old, tiny, diseased, apt to run away, blind of one eye, or lame.

25. When by the deficiency of one (partner) as to cattle or seeds a loss happens in (the produce of) the field, it must be made good by him to all the husbandmen.

26. This primeval set of rules has been declared for cultivators of the soil.

27. One able to work up gold, silver, thread, wood, stone, or leather, and acquainted with the articles to be manufactured (with such materials), is called *Silpin* (an artizan or artist) by the wise.

28. When goldsmiths or other (artists) practise their art jointly, they shall share the profits in due proportion, corresponding to the nature of their work.

27, 28. *Ratn.* p. 124; *Col. Dig.* II, 3, 52; *Viv.* p. 70; *Vîram.* p. 396. Some compilations exhibit the readings *kupya*, 'base metals,' for *rûpya*, 'silver;' *pattra*, 'leaves,' for *sûtra*, 'thread;' *tattatkalâbhigñah*, 'acquainted with the minute particles of these materials,' for *ka palâbhigñah*, 'and acquainted with the articles to be manufactured.'

29. The headman among a number of workmen jointly building a house or temple, or digging a pool or making articles of leather, is entitled to a double share (of the remuneration).

30. The same rule has been declared by virtuous men for musicians; he who knows how to beat the time shall take a share and a half, but the singers shall take equal shares.

31. When anything has been brought from a hostile country by freebooters, with the permission of their lord, they shall give a sixth part to the king and share (the remainder) in due proportion.

32. Four shares shall be awarded to their chief; he who is (specially) valiant shall receive three shares; one (particularly) able shall take two; and the remaining associates shall share alike.

XV. RESUMPTION OF GIFTS.

1. The system of rules relative to Concerns of a Partnership has been fully declared thus; the rules regarding what may, or may not, be given, valid, and invalid gifts, will be declared (next).

29. Ratn. p. 125; Col. Dig. II, 3, 54; May. p. 121; Viv. p. 70; Vîram. p. 390. The last two works read vâpi for vâpî, and under this reading the clause 'or digging a pool' would have to be omitted. The Mayûkha reads dhârmika, 'sacred articles,' for kârmika, 'articles made of leather.'

30. Ratn. p. 125; Col. Dig. II, 3, 55; Viv. p. 71; Vîram. p. 391; May. p. 121.

31, 32. Ratn. p. 125; Col. Dig. II, 3, 56; Viv. p. 71; Vîram. p. 391. 'Their chief,' i. e. one who exerts mind and body. Ratn., Viv.

XV, 1. Ratn. p. 127; Col. Dig. II, 4, 1; Vîram. p. 392.

2. That which may not be given is declared to be of eight sorts, joint property, a son, a wife, a pledge, one's entire wealth, a deposit, what has been borrowed for use, and what has been promised to another.

3. What remains after defraying (the necessary expenses for) the food and clothing of his family, may be given by a man; otherwise (by giving more than that), the religious merit (supposed to be acquired by the giver) though tasting like honey at first, will change into poison in the end.

4. When any field (or house) is given away, belonging to a number of houses or fields acquired in one of the seven modes of (lawful) acquisition, it is ordained to be viewed as a valid gift, whether it have been inherited from the father or acquired by the donor himself.

5. Self-acquired property may be given away at pleasure (by its owner); a pledge may be disposed of according to the rules of mortgage; in the case of property received as a marriage portion, or inherited from an ancestor, the bestowal of the whole is not admitted.

6. When, however, a marriage gift, or inherited property, or what has been obtained by valour, is

2. Ratn. p. 127; Col. Dig. II, 4, 5; Viv. p. 72; Vīram. p. 392.

3. Ratn. p. 129; Viv. p. 75; Col. Dig. II, 4, 18.

4, 5. Viv. p. 76. The seven modes of acquisition are, according to Manu (X, 115), inheritance, finding, purchase, conquest, lending at interest, doing work, and the acceptance of gifts from virtuous men. The prohibition to give away the whole, in 5, relates to property acquired by valour as well, according to the Ratnākara. The clause translated by 'bestowal of the whole' may also mean, 'every gift,' i.e. a gift not sanctioned by the persons referred to in 6.

4-7. Ratn. p. 130; Col. Dig. II, 4, 18.

given with the assent of the wife, kinsmen, or supreme ruler, the gift acquires validity.

7. Co-heirs (or joint-tenants), whether divided in interests or not, have an equal claim to the immovable wealth; a single (parcener) has no power to give, mortgage, or sell the whole (wealth).

8. The following eight sorts of gifts are recognised as valid by persons acquainted with the law of gift, viz. wages, (what was given) for the pleasure (of hearing bards, or the like), the price of merchandise, the fee paid for (or to) a damsel, (and what was given) to a benefactor (as a return for his kindness), through reverence, kindness, or affection.

9. What has been given by one angry, or resenting an injury, or through inadvertence, or by one distressed, by a minor, a madman, one terrified, intoxicated, overaged, cast out from society, idiotic, or afflicted with grief or an illness,

10. Or what is given in jest; all such gifts are declared to be void gifts.

11. When anything has been given through desire of a reward, or to an unworthy man mistaken for a worthy person, or for an immoral purpose, the owner may resume the gift.

XVI. MASTER AND SERVANT.

1. What may not be given and kindred subjects have been declared; the law of servants shall be propounded next. (There) the title of Breach of Promised Obedience is treated first.

8. Ratn. p. 133; Col. Dig. II, 4, 49; Viv. p. 81.

9, 10. Ratn. p. 136; Viv. p. 83; Col. Dig. II, 4, 62.

11. Ratn. p. 136; Viv. p. 83; Col. Dig. II, 4, 62.

XVI, 1, 2. Ratn. p. 139; Col. Dig. III, 1, 1; Viv. p. 84.

2. The titles of non-payment of wages, and then (of disputes) between the owner (of cattle) and his servants are to follow in due order. Such are the three divisions of (the law of) servants.

3. They are pronounced to be of many sorts, according to their particular caste and occupation; and fourfold, according as they serve for science, human knowledge (or skill), love, or gain.

4. Each of these is again divided (into several species), according to the difference of occupation.

5. Science is declared to be a knowledge of (one of) the three Vedas, called Rig-veda, Sâma-veda, and Yagur-veda; for the purpose of acquiring such knowledge, he should pay obedience to a spiritual teacher, as ordained in law.

6. Arts (consisting of) work in gold, base metals, and the like, and the art of dancing and the rest are termed human knowledge; he who studies them should do work at his teacher's house.

7. He who has intercourse with another man's female slave, should be considered as a slave for the sake of his paramour; he must do work for her master, like another hired servant.

8. The servant for gain (or pay) is declared to be of many sorts, another is the servant for a share (of the gain). Of all, a low, a middle, and a high sort is distinguished.

9. A servant engaged for a day, a month, half a month, a sixmonth, two months, or a year, must do

3, 4. Ratn. p. 140; Col. Dig. III, 1, 4; Viv. p. 84.

5. Ratn. p. 140; Col. Dig. III, 1, 8; Viv. p. 86.

6. Ratn. p. 141; Col. Dig. III, 1, 16; Viv. p. 86.

7. Viv. p. 87; Col. Dig. III, 1, 32.

8-11. Ratn. pp. 142, 143; Col. Dig. III, 1, 24.

the work which he promised to do, and receives the stipulated fee.

10. The warrior is the highest of these; the cultivator of the soil is the middlemost; the porter is declared to be the lowest, and so is (a servant) employed in household work.

11. A servant for a share of the gain is declared to be twofold, either serving a husbandman or an owner of cattle; he shall receive, no doubt, a share of the grain produced, or of the milk.

12. A third or a fifth (of the produce) shall be awarded to the cultivator of the soil as his share.

13. Let that cultivator to whom food and clothing is given take a fifth of the crop; and let him who serves in consideration of the profit (alone) take a third part of the grain produced.

14. Should a hired servant fail in the performance of ever so small a part of his master's work, he forfeits his wages, and may be sued in court for his offence.

15. When a servant does not perform his work after having received his wages, though able (to do work), he shall be compelled to pay twice as much (as his wages) as a fine (to the king), and (shall restore) the wages (to his master).

16. He who has promised (to do work) and does not perform it, shall be compelled to do so by forcible means even; and if, through obstinacy, such a servant should still not do it as engaged for, he shall be fined

12, 13. Ratn. pp. 157, 158; Col. Dig. III, 1, 66, 67.

14, 15. Ratn. p. 159; Col. Dig. III, 1, 71.

16. Ratn. p. 160; Col. Dig. III, 1, 75. There is another reading, translated by Colebrooke, under which the fine is to amount to two hundred *Pazas*, instead of eight *Krishnalas*.

eight *Krishnalas*, and his wages shall not be paid to him.

17. When a servant, commissioned by his master, does any improper act (such as theft) for the benefit of his master, the latter shall be held responsible for it.

18. When a master does not pay wages for the labour stipulated after the work has been performed, he shall be compelled by the king to pay it, and a proportionate fine besides.

19. (A man) hired for attendance on milch cows of another shall receive the whole milk every eighth day.

20. (A cowherd) shall save cattle from danger of reptiles, robbers, and tigers, and from caverns or pits; let him try his best to protect them, call out for help, or give notice to his master.

XVII. VIOLATION OF AGREEMENTS.

1. Thus has been declared the law concerning the mutual relations between master and servant; learn now concisely the performance of agreements.

2. Brahmans imbued with a knowledge of the Veda and of sacred lore, learned divines, and persons keeping a sacrificial fire, (the king) should worship, establish them there (in his kingdom), and provide a maintenance for them.

17. Ratn. p. 162; Col. Dig. III, 1, 84; Viv. p. 100.

18. Ratn. p. 165; Col. Dig. III, 1, 93; Viv. p. 100.

19. Viv. p. 105; Ratn. p. 170; Col. Dig. III, 4, 4.

20. Ratn. p. 172; Viv. p. 106; Col. Dig. III, 4, 10.

XVII, 1-10. Ratn. pp. 177-179; Col. Dig. III, 2, 2, 6.

2-9. *Vīram*. pp. 423-427. The readings given in the *Vīramitrodaya* have been translated everywhere, except in 2, where the *Ratnākara* has been followed.

3. Let him bestow on them houses and landed property, exempt from taxation, declaring in a written grant that the revenue is remitted.

4. They shall perform for the citizens constant, special, and voluntary rites, as well as expiatory and auspicious ones, and pass a decision in doubtful cases.

5. A compact formed among villagers, companies (of artizans), and associations is (called) an agreement; such (an agreement) must be observed both in times of distress and for acts of piety.

6. When a danger is apprehended from robbers or thieves, it is (considered as) distress common to all; in such a case, (the danger) must be repelled by all, not by one man alone whoever he may be.

7. Mutual confidence having first been established by means of (the ordeal by) sacred libation, by a stipulation in writing, or by umpires, they shall then set about their work.

8. Enemies, dissolute, bashful, indolent, timid, avaricious, overaged or very young persons must not be chosen as intendants of affairs.

9. Honest persons, acquainted with the Vedas and with duty, able, self-controlled, sprung from noble families, and skilled in every business, shall be appointed as heads (of an association).

10. Two, three, or five persons shall be appointed as advisers of the association; their advice shall be taken by the villagers, companies (of artizans), corporations (of cohabitants), and other (fellowships).

11. When a stipulation has been entered in a

11-14. Ratn. p. 181; Col. Dig. III, 2, 14; Vīram. p. 425. For kulāyanam in 13, the Vīramitrodaya reads kulāyandairodhas ka and

document as follows, 'The construction of a house of assembly, of a shed for (accommodating travellers with) water, a temple, a pool, or a garden,

12. Relief to helpless or poor people, the performance of sacrificial acts, a common path, or defence, shall be undertaken by us in proportionate shares : ' that is a lawful agreement.

13. (Such an agreement) must be kept by all. He who fails (in his agreement), though able (to perform it), shall be punished by confiscation of his entire property, and by banishment from the town.

14. And for that man, whoever he may be, who falls out (with his associates), or neglects (his work), a fine is ordained amounting to six Nishkas of four *Suvarnas* each.

15. He who injures the joint stock, or insults a Brahman acquainted with the three Vedas, or breaks the mutual agreement, shall be banished from the town.

16. An acrimonious or malicious man, and one who causes dissension or does violent acts, or who is inimically disposed towards that company, association, or the king, shall be banished instantly from the town.

17. The heads of families, companies (of artizans) and associations, whether inhabiting a town or a stronghold, shall censure and reprimand offenders, and forsake them.

interprets it by 'the maintenance of a family, including its preservation in times of distress.'

15. Ratn. p. 183 ; Col. Dig. III, 2, 19.

16. Ratn. p. 184 ; Col. Dig. III, 2, 20 ; *Vīram.* p. 430.

17. Ratn. p. 184 ; Col. Dig. III, 2, 21 ; *Vīram.* p. 429 ; *Viv.* p. 110.

18. Whatever is done by those (heads of an association), whether harsh or kind towards other people, must be approved of by the king as well ; for they are declared to be the appointed managers (of affairs).

19. Should they agree, actuated by hatred, on injuring a single member of the fellowship, the king must restrain them ; and they shall be punished, if they persist in their conduct.

20. When a dispute arises between the chiefs and the societies, the king shall decide it, and shall bring them back to their duty.

21. Those (companions in trade) who conspire to cheat the king of the share due to him (of their profits), shall be compelled to pay eight times as much, and shall be punished if they take to flight.

22. Whatever is obtained then by a man, shall belong to all in common ; whether it have been obtained a sixmonth or a month ago, it shall be divided in due proportion.

23. (Or) it shall be bestowed on the idiotic, the aged, the blind, to women or children, to afflicted or diseased persons, to persons having issue, or the like (worthy persons). This is an eternal law.

24. Whatever is obtained or preserved by the members of a fellowship, or spent on behalf of the

18. Ratn. p. 184 ; Col. Dig. III, 2, 22 ; Vīram. p. 429.

19. Ratn. p. 184 ; Col. Dig. III, 2, 23 ; Vīram. p. 429.

20. Ratn. p. 184 ; Col. Dig. III, 2, 24.

21. Ratn. p. 185 ; Col. Dig. III, 2, 27 ; Viv. p. 110.

22. Ratn. p. 186 ; Col. Dig. III, 2, 30 ; Viv. p. 116. The commentators observe that gifts obtained from a king are meant.

23, 24. Ratn. pp. 186, 187 ; Col. Dig. III, 2, 31 ; Vīram. p. 432. For prakalpita in 24, 'what is spent,' the last two words read *rinamkrītam*, 'what is borrowed.'

society, or acquired through the king's favour, is common to all (members of the society).

XVIII. RESCISSION OF PURCHASE AND SALE.

1. This set of rules concerning the law of agreements has been briefly stated; disputes arising from purchase and sale shall be treated next.

2. Two sorts of property are distinguished, immovable and movable; when a purchase is concluded, the term 'vendible property' (*panya*) is applied to both.

3. The purchaser shall examine a chattel himself and show it to others; when, after examining and approving it, he has accepted it, he is not at liberty to return it again.

4. The foolish man who sells an article, though acquainted with its blemish, shall have to pay twice its value (to the vendee), and (a fine of) the same amount (to the king).

5. What has been sold by one intoxicated or insane, or at a very low price, or under the impulse of fear, or by one not his own master, or by an idiot, shall be relinquished (by the purchaser, or it) may be recovered (from the purchaser) by forcible means.

6. Within that period, if a blemish should be

XVIII, 1, 2. Ratn. p. 189; Col. Dig. III, 3, 1.

3. Vivam. p. 433; Col. Dig. III, 3, 11; Ratn. p. 198; Viv. p. 117.

4. Vivam. p. 441; Ratn. p. 192; Col. Dig. III, 3, 31; Viv. p. 114.

5. Vivam. p. 441; Ratn. p. 193; Col. Dig. III, 3, 37. Thus, according to some commentators; others construe the clause 'at a very low price' with each part of the sentence.

6. Viv. p. 116; Col. Dig. III, 3, 14; May. p. 131. 'Within that period,' i. e. the period allowed for examination,

discovered anywhere in the commodity purchased, it shall be returned to the vendor, and the purchaser shall recover the price.

XIX. BOUNDARY DISPUTES.

1. This rule regarding rescission of purchase and sale has been declared. Hear the laws concerning boundaries of villages, fields, houses, and so forth.

2. The determination of boundaries should be settled at the time of foundation, and it should be marked by visible and invisible signs, so as to dispel doubt.

3. Wells, tanks, pools, large trees, gardens, temples, mounds, channels, the course of a river, reeds, shrubs, or piles of stones :

4. By such visible signs as these a boundary line should always be caused to be marked ; also, by other (marks) deposited underground which the earth is not likely to destroy.

5. Dry cowdung, bones, chaff, charcoal, stones, potsherds, sand, bricks, cows' tails, cotton seeds, and ashes :

6. After having placed these substances in vessels, one should deposit them underground at the extremities of the boundary. After that, one should take care to point them out to youths and infants.

7. These (youths and infants) should again show them to their own children, after having grown old ;

XIX, 1. Ratn. p. 201.

2. Ratn. p. 202. 'Invisible signs' are substances deposited underground.

3, 4. Viv. p. 120 ; Ratn. p. 203 ; Vîram. p. 452.

5, 6. Ratn. p. 204 ; May. p. 134 ; Vîram. pp. 452, 453.

7. Ratn. p. 204.

by knowledge thus passing from one generation to the other, doubts regarding boundaries may be obviated.

8. In disputes regarding a house or field, the decision belongs to the neighbours, as well as to the inhabitants of that town or village, or to members of the same society, and to the elders (of that district).

9. (Likewise, to) husbandmen, artisans, servants, cowherds, hunters, gleaners, diggers of roots, fishermen, kinsmen, mischief-makers, and robbers.

10. After having been adjured by imprecations befitting their station, they shall determine the boundary, and shall indicate the marks deposited underground, as evidence. Such is the law.

11. In default of witnesses and signs, even a single man, agreeable to both parties, may fix the boundary, wearing a red garland of flowers and a red cloak, putting earth on his head, adhering to truth, and having kept a fast.

12. Neighbours born in that district, though they be living abroad, are termed natives of the place; they should be consulted in the decision of a suit.

13. What they should declare in a doubtful case, as honest men and impartial to both parties, shall be held decisive; thus justice will not be violated.

14. Those are witnesses in a suit of this kind who know the title of acquisition, the size, the duration of the enjoyment, the name, and the characteristics of the land in question.

8, 9. Ratn. p. 209.

10. Ratn. p. 210; Vîram. p. 457.

11. Vîram. p. 458; Ratn. p. 211; Viv. p. 122; May. p. 134.

12, 13. Ratn. p. 213.

14. Vîram. p. 453.

15. The same rule holds good in all suits concerning immovable property. If their statements do not agree, they shall be made to pay the highest fine.

16. Supposing a piece of land to have been taken from a village belonging to one man, and given to another man, either by a large river or by the king, what should be decided in that case?

17. The land abandoned by a river or granted by the king belongs to him who receives it. Otherwise, there would be no acquisition through fate or the king among men.

18. Loss and gain and life among men depend on the act of fate and of the king; therefore, in all affairs, what is effected by them must not be rescinded.

19. When a river has been fixed as the boundary line between two villages, it shall never be removed, on account of loss or gain arising (from that river to either village). He who removes it, is liable to punishment.

20. The encroachment (of a river) on one side produces an increase of land elsewhere in banks of rivers; that (increase) must not be taken from him (who gets it).

21. When land is carried away by the swift course

15. *Vīram.* p. 457; *Smṛitik.*

16-23. *Ratn.* pp. 216, 217; *Viv.* pp. 123, 124; *Vīram.* pp. 461, 462. The second half of 19 is read as follows in the *Vīramitrodaya*, '(The river) effects gain or loss, according as people are lucky or unlucky.' This reading may have crept in from 16. For *taulyâ*, I read *kâlyâ*, with *Vīram.*

21. Such a tilled piece of land shall be made over to the previous owner till the harvest is over. When the harvest is over, the previous rule (20) holds good. *Vīram.*

of a river overflowing a tilled piece of ground, the previous owner shall recover it.

22. When land is taken from one man by a king actuated by anger or avarice, or using a fraudulent pretext, and bestowed on a different person as a mark of his favour, such a gift is not considered as valid.

23. When (however) land is taken from a person enjoying it without a legitimate title of ownership, and given to a worthier person, (the latter) must not be deprived of it.

24. A house, pool, shop or the like having been used by a man since the time of its foundation, must not be taken from him, nor diminished or altered.

25. A window, a watercourse, a peg projecting from a wall (used to hang things upon), a shed (erected in a courtyard), a square of four buildings, and a channel for the exit of water (after a rainfall), must not be blocked up, when previously constructed.

26. A privy, a fireplace, a pit, or a receptacle for leavings of food and other (rubbish), must never be made very close to the house of another man.

27. A passage by which men and animals go to and fro unprevented is called *Samsarana*, and must not be obstructed by any one.

28. He who purposely crowds such a place (by carts and the like), or makes a pit, or plants trees, or voids excrements, shall pay a *Māshaka* as a fine.

23. I read *vai dattâ*, with *Vīram.*, for *vādeyâ* or *vādattâ* (*Ratn.*, *Viv.*).

24. *Viv.* p. 124; *Vīram.* p. 463; *Ratn.* p. 219.

25. *Viv.* p. 124; *Vīram.* p. 465; *Ratn.* p. 219.

26. *Viv.* p. 125; *Vīram.* p. 464; *Ratn.* p. 219; *May.* p. 135.

27. *May.* p. 136; *Viv.* p. 125; *Ratn.* p. 220; *Vīram.* p. 464.

28. *Vīram.* p. 465; *May.* p. 136.

29. When a man has leased ground, he shall sow and watch it, and reap the harvest in due season. If he fails to do so, he shall be compelled to make good the average value of the crop to the owner.

XX. DEFAMATION.

1. Injury (pârushya) is declared to be of two kinds, harsh speeches and beating; each of these two kinds is again divided into three species, and the punishment is pronounced to be threefold.

2. Abuse of the first (or lowest) degree means offensive language against, or defamation of, a country, village, family, or the like, without (mentioning) an (individual ignominious) act.

3. Referring (in terms of contempt) to a man's sister or mother, or charging him with a minor sin, is termed abuse of a middling sort by the learned in law.

4. Charging a man with taking forbidden food or drinks, or taxing him with a mortal sin, or maliciously exposing his weakest points, is termed abuse of the highest degree.

5. When two persons abuse each other, their punishment shall be equal, if they are equals in caste; if one is inferior to the other, his punishment shall be double; for a superior, half (of the ordinary punishment) is ordained.

29. Viv. p. 129; Ratn. p. 229.

XX, 1. Ratn. p. 243; Viv. p. 138. The former work reads 'two species.'

2-4. Ratn. pp. 243, 244; Viv. p. 138; May. p. 137; Vîram. p. 483. 'Terms of contempt' in 3 means filthy speeches, such as 'I shall visit your sister or mother.'

5. Ratn. p. 245; Vîram. p. 484.

6. When persons equal in caste and qualities abuse one another, the punishment ordained for them in the system of law is thirteen *Panas* and a half.

7. For a Brahman abusing a Kshatriya, the fine shall be half of a hundred (fifty *Panas*); for abusing a Vaisya, half of fifty (twenty-five *Panas*); for abusing a Sûdra, twelve and a half.

8. This punishment has been declared for (abusing) a virtuous Sûdra who has committed no wrong; no offence is imputable to a Brahman for abusing (a Sûdra) devoid of virtue.

9. A Vaisya shall be fined a hundred (*Panas*) for reviling a Kshatriya; a Kshatriya reviling a Vaisya shall have to pay half of that amount as a fine.

10. In the case of a Kshatriya reviling a Sûdra, the fine shall be twenty *Panas*; in the case of a Vaisya, the double amount is declared to be the proper fine by persons learned in law.

11. A Sûdra shall be compelled to pay the first fine for abusing a Vaisya; the middling fine (for abusing) a Kshatriya; and the highest fine (for abusing) a Brahman.

12. (A Sûdra) teaching the precepts of religion, or uttering the words of the Veda, or insulting a Brahman, shall be punished by cutting out his tongue.

13. (A man) reviling a sister or other (relation) of

6. Ratn. p. 247; Vîram. p. 483.

7-11. Ratn. pp. 251, 252; Vîram. p. 485.

7. May. p. 138.

12. May. p. 138; Vîram. p. 486; Viv. p. 141; Ratn. p. 252.

13. Ratn. p. 250; Vîram. p. 485. The latter work reads *viprâdikam*, 'a Brahman or other person,' for *svasrâdikam*, 'a sister or other relative.'

another person shall give a fine amounting to fifty *Panas*.

14. He who reviles a person's native country or other (belongings of his), shall be fined twelve *Panas* and a half. He who through arrogance imputes an offence to him, shall be compelled to pay the first fine.

15. This gradation of fines has been declared by me, subject to modification by the sages, in conformity with the (particular caste or qualities of a) man, so as either to remain as declared, or to be reduced or raised.

XXI. ASSAULT.

1. Injuring (a man) with a hand, stone, club, or (throwing at him) ashes, or mud, or dust, or (attacking him with) a weapon, is termed assault.

2. Throwing ashes or the like (at a man), or striking him with a hand or the like, is (termed) an assault of the first degree; the fine to be inflicted in that case shall amount to a *Mâsha*.

3. This fine is ordained for (an assault on) equals in caste; (for assaults) on another man's wife or on a superior, it shall be twofold or threefold, according to the sages, according to the rank (of the person injured).

4. He who having been abused returns the abuse, or having been beaten returns the blow, or strikes an offender down, commits no wrong.

14, 15. *Vîram*. p. 488; *Ratn*. p. 257.

XXI, 1. *Ratn*. p. 259.

2, 3. *Ratn*. p. 261; *Viv*. p. 144.

4. *May*. p. 139; *Vîram*. p. 472; *Viv*. p. 153; *Ratn*. p. 276.

5. When a person throws gravel, stones, or pieces of wood at another, the first (or lowest) fine shall be inflicted on him. When they mutually strike one another with a hand or foot, it shall amount to ten or twenty *Panas* respectively.

6. The second fine shall be imposed when two persons in anger use weapons against one another; when a wound has been inflicted, the punishment shall be fixed by experts, corresponding to the severity of the hurt.

7. For injuring (a person) with bricks, stones, or a wooden club, (the fine shall be) two *Māshas*; the double fine shall be inflicted, according to the sages, when blood flows.

8. For tearing the skin, the first (or lowest) fine (shall be inflicted); for tearing the flesh, the second fine; for breaking a bone, the highest fine; for killing, capital punishment.

9. For breaking the ear, nose, or hand (of a person), or injuring his teeth, or feet, the second fine shall be inflicted; and double of that, for entirely cutting off (any of those limbs).

10. He who injures a limb, or divides it, or cuts it off, shall be compelled to pay the expense of curing it; and (he who forcibly took an article in a quarrel, shall restore) his plunder.

11. When a man has been beaten in a solitary place, or when no wound is seen, the offender shall

5. Ratn. p. 263; Viv. p. 145; Vīram. p. 473.

6, 7. Vīram. p. 474; Viv. p. 147; Ratn. p. 264.

8, 9. Viv. p. 148.

10. Viv. p. 153; Ratn. p. 270; Vīram. p. 477.

11, 12. Ratn. p. 273.

be found out by circumstantial evidence or by an oath or ordeal.

12. When he has been struck in the interior of a house, or in a wood, or at night, and blood becomes visible, one shall not examine witnesses.

13. When two persons strike simultaneously, the punishment shall be equal for both; the first aggressor and he who is a habitual mischief-maker shall be compelled to pay a larger fine.

14. When a low person offends a man in high position by harsh words or the like, that man must not be persecuted by the king if he beats his aggressor.

15. Persons begotten in the inverse order of castes, and members of the lowest caste, are called the refuse of society; should they insult a Brahman, they shall be corporally punished, and shall never be amerced in a fine.

16. He who employs at an improper time, for drawing or carrying, tired, or hungry, or thirsty animals, shall be compelled to atone for it in the same way as a cow-killer, or to pay the first fine.

XXII. ROBBERY AND VIOLENCE.

1. Homicide, theft, assault on another man's wife, and the two kinds of injury (abuse and assault) are the four species of violence (Sâhasa).

2. Thieves are declared to be of two kinds, open and concealed. These are subdivided a thousand-

13. Ratn. p. 275.

14. Ratn. p. 276.

15. Ratn. p. 277.

16. Ratn. p. 280.

XXII, 1. May. p. 145.

2-4. Ratn. p. 289; Vîram. p. 491.

fold, according to their skill, ability, and mode of cheating.

3. (Fraudulent) traders, quacks, gamblers, (corruptible) judges, those who accept bribes, cheats, persons (pretending) to know how to interpret evil omens, or to practise propitiatory rites, low artists, forgers,

4. (Hired servants) refusing to do their work, (roguish) umpires, perjured witnesses, and, lastly, jugglers : these are termed open thieves.

5. Housebreakers, highwaymen, robbers of bipeds or quadrupeds, thieves of clothes and the like, and stealers of grain, should be considered secret thieves.

6. (Thieves or robbers) having been found out by the king's attendants by their associating (with thieves) or by marks of their criminality, or by their being possessed of stolen goods, shall be compelled to restore their plunder, and shall be visited with punishments ordained in law.

7. A merchant who conceals the blemish of an article which he is selling, or mixes bad and good articles together, or sells (old articles) after repairing them, shall be compelled to give the double quantity (to the purchaser) and to pay a fine equal (in amount) to the value of the article.

8. A physician who, though unacquainted with drugs and spells, or ignorant of the nature of a disease, yet takes money from the sick, shall be punished like a thief.

9. Gamblers playing with false dice, prostitutes,

5. Ratn. p. 292.

6. Viv. p. 157; Ratn. p. 293.

7-15. Ratn. pp. 297, 306-311, 314; May. p. 142; Vīram. p. 492; Viv. pp. 159-165. The readings of the Ratnākara have been followed throughout, in preference to those found in the other works.

those who appropriate what belongs to the king, and those who cheat an association, are pronounced to be impostors, and punishable as such.

10. Judges passing an unjust sentence, those who live by taking bribes, and those who disappoint confidence (placed in them) : all such persons shall be banished.

11. Those who, without knowing the science of stars, or portents, expound them to the people from avarice, shall be punished by all means.

12. Those who show themselves in public wearing a staff, a skin, and the like (insignia of a religious order), and injure mankind by deceiving them, shall be corporally punished by the king's officers.

13. Those who by artificially getting up articles of small value cause them to appear very valuable, and deceive women or children (by doing so), shall be punished in proportion to their gain.

14. Those who make false gold or factitious gems or coral shall be compelled to restore their price to the purchaser, and to pay the double amount to the king as a fine.

15. Arbitrators who cheat either party from partiality, avarice or some other motive, and witnesses who give false evidence, shall be compelled to pay twice the amount (in dispute) as a fine.

16. Those who procure gain by means of spells or medicines (shall be compelled to give up) their gain; those who practise incantations with roots shall be banished by the ruler of the land.

17. Housebreakers shall be compelled to relinquish their plunder and be impaled on a stake after-

10. Ratn. p. 315.

17. Ratn. p. 317; May. p. 143; Viram. p. 494; Viv. p. 166.

wards, and highwaymen shall be bound and hanged by the neck from a tree.

18. Those who have kidnapped a man shall be burned by the king with a fire kept up with straw; the stealer of a woman (shall be placed) on a bed of hot iron, or burned with a fire kept up with straw.

19. Stealers of grain shall be compelled to give ten times as much (to the owner), and the double amount as a fine; a cow-stealer shall have his nose cut off, and shall be plunged into water, after having been fettered.

20. When a man takes grass, wood, flowers, or fruit without asking permission to do so, he deserves to have a hand cut off.

21. On him who steals more than ten kumbhas of grain, corporal punishment (or execution) shall be inflicted; (for stealing) less than that, a man shall be fined eleven times the quantity stolen, and shall restore his property to the owner.

22. When a religious man and diligent reader of the Veda has committed theft, he shall be kept in prison for a long time, and shall be caused to perform a penance after having been compelled to restore the stolen goods to the owner.

23. Hear now (the law regarding) theft coupled with violence, which springs from either wrath or avarice.

18. Ratn. p. 317; Viv. p. 166.

19. Ratn. p. 322; Vīram. p. 494; May. p. 143.

20. Ratn. p. 329; Viv. p. 174.

21. Viv. p. 169.

22. Ratn. p. 331; Viv. p. 176. Under the version found in the latter work, the punishment does not take place when the Brahman performs a penance.

23. Vīram. p. 503.

24. It is declared to be threefold, as it may be (theft or violence) of the lowest, second, or highest kind ; the punishment in each case should also be of the lowest, middling, or highest sort, according to the (nature of the) article (stolen or injured).

25. He who destroys or takes implements of husbandry, an embankment, flowers, roots, or fruit, shall be fined a hundred (*Panas*) or more, according (to the nature of his offence).

26. So one injuring or stealing cattle, clothes, food, drinks, or household utensils, shall be compelled to pay a fine of not less than two hundred (*Panas*), like a thief.

27. In the case of women, men, gold, gems, the property of a deity or Brahman, silk, and (other) precious things, the fine shall be equal to the value (of the article stolen).

28. Or the double amount shall be inflicted by the king as a fine ; or the thief shall be executed, to prevent a repetition (of the offence).

29. Violence is declared to be of five sorts, and of these, manslaughter is declared to be the worst ; those who have perpetrated it, shall not be amerced in a fine, they shall be put to death by all means.

30. Both notorious murderers and secret assassins shall be put to death by the king by various modes of execution, after their property has been duly seized.

31. When several persons in a passion beat a single individual (and kill him), the responsibility

24-28. Ratn. p. 350 ; May. p. 147.

29, 30. Ratn. p. 371 ; Viv. p. 192.

30. May. p. 145 ; Viram. p. 501.

31-33. Ratn. p. 373 ; Viv. p. 194.

for his death shall be charged to him who strikes the fatal blow.

32. He who struck the fatal blow shall have to atone for his offence as directed; the first aggressor and the associates shall be punished half as much.

33. The decision should be given after carefully ascertaining by signs the less or greater severity of a wound, the seat of vital power, the strength (of the murdered individual), and the repetition (of the blows or cuts).

34. Where the corpse is found, but the murderer cannot be discovered, the king shall trace him by drawing an inference from previous enmities of his.

35. His immediate neighbours, and their neighbours, as well as his friends, enemies, and relatives, shall be questioned by the king's officers, employing towards them the (four) expedients of conciliation and so forth.

36. The (guilty) person may be found out from his keeping bad company, from signs (of the crime committed), and from the possession of stolen property. Thus has been declared the method of discovering murderers and robbers.

37. He who has been arrested on suspicion and does not confess his guilt, shall clear himself (from suspicion) by ordeal; this rule holds good for causes of every sort.

38. He who has been cleared of guilt by ordeal shall be released; he who has been convicted shall be put to death. By punishment (of the wicked)

34-36. Ratn. p. 377; Viv. p. 197 (the better version).

35. The three other expedients are, bribery, intimidation, and violence.

37, 38. Ratn. pp. 377, 378; Viv. p. 198.

and release (of the virtuous), the renown and religious merit of a king is increased.

XXIII. ADULTERY.

1. The two kinds of injury (abuse and assault) and the three kinds of violence have been declared. Learn the threefold (offence of) adultery, which is productive of sin.

2. The two first kinds of it are connected with violence and deception respectively, the third kind springs from sensual desire; the last is again of three sorts, being of the first, second, or highest degree.

3. When a man has intercourse with a woman in secret against her will, when she is asleep, or disordered in her intellect, or does not notice his approach, it is (termed) forcible enjoyment of a woman.

4. When he conducts her into his house under false pretences, and after giving her intoxicating drugs, has intercourse with her, it is considered fraudulent enjoyment of a woman.

5. When a man exchanges looks with a woman or sends her messages, and has intercourse with her impelled by sensuality, it has to be considered as (adulterous intercourse) springing from sensual desire.

6. Winking (at a woman), smiling (at her), sending her messengers, and touching her ornaments or clothes, is termed an adulterous act of the first (or lowest) degree.

7. Sending perfumes, garlands, fruit, spirituous liquor, food, or clothes, and conversing with her in

XXIII, 1-5. *Vīram.* pp. 504, 505; *Ratn.* pp. 378, 379.
 . 6-8. *Vīram.* p. 505; *Ratn.* pp. 379, 380; *Viv.* p. 200.

secret, is considered an adulterous act of the second degree.

8. Sitting on the same bed, dallying, and kissing or embracing each other, is defined as an adulterous act of the highest degree by persons acquainted with law.

9. For these three gradations of adultery, the first, middling, and highest fines shall be inflicted respectively; the fine shall be even higher than that, in the case of a very rich man.

10. (The king) shall confiscate the whole wealth of him who violates an unwilling woman, and having caused his penis and scrotum to be cut off, shall cause him to be paraded on an ass.

11. When a man enjoys a woman by fraud, his punishment shall be confiscation of his entire wealth, and he shall afterwards be branded with the mark of a female part and banished from the town.

12. The highest fine (shall be inflicted for connexion) with a woman of equal caste; half of that (for connexion) with a woman of inferior caste; but a man who has connexion with a woman of higher caste than his own, shall be put to death.

13. When a woman has been enjoyed against her

9. Ratn. p. 384; Vīram. p. 506; Viv. p. 202; May. p. 149. The Mayūkha as printed reads this text differently, but one MS. of it agrees with the other compilations.

10. Ratn. p. 388; Viv. p. 212; May. p. 148.

11, 12. Ratn. p. 389; Viv. p. 213; May. p. 149. The reading of the Mayūkha seems to be wrong. This rule (12) is declared to apply to those cases where force or deception has not been used. Ratn., Viv.

11. Vīram. p. 506.

13, 14. Ratn. p. 400. For the *Krikhhra* (Prâgâpatya) and Parâka penances, see Manu XI, 212, 216.

will, she shall be kept in the house well guarded, smeared (with ashes), lying on a low couch, and receiving a bare maintenance only.

14. To atone for her sin, she shall be caused to perform the *Krikkhra* or *Parāka* penance, in case she had intercourse with her equal in caste; but if she has been enjoyed by a man of inferior caste, she shall be abandoned and put to death.

15. When a woman comes to a man's house and excites his concupiscence by touching him or the like acts, she shall be punished; half of her punishment shall be inflicted on the man.

16. Her nose, lips, and ears having been cut off, she shall be paraded in the streets and plunged into water; or she shall be torn to pieces by dogs in a public place frequented by many persons.

XXIV. DUTIES OF MAN AND WIFE.

1. The whole set of commandments concerning adultery has thus been stated; listen to me proclaiming the conduct prescribed for man and wife.

2. A woman must be restrained from slight transgressions even by her relations; by night and by day she must be watched by her mother-in-law and other wives belonging to the family.

3. A father who does not give his daughter in

15. *Vīram.* p. 513; *Viv.* p. 217.

16. *Viv.* p. 217.

XXIV, 1. *Ratn.* p. 409; *Col. Dig. IV, 1, 1.*

2. *Ratn.* p. 411; *Col. Dig. IV, 1, 12.*

3. *Ratn.* p. 412; *Col. Dig. IV, 1, 15*; *Viv.* p. 220. Regarding the time favourable for procreation, see *Manu III, 46.*

marriage in proper time (before she has reached maturity), a husband who has not connexion with his wife at the time favourable for procreation, and a son who does not support his mother : all such deserve contempt and shall be punished as ordained in law.

4. Employing (a woman) in the receipt and expenditure (of wealth), in the preparation of food, in the preservation of domestic utensils, in purification, and in the care of the (sacred household) fire, is declared to be the (best) way of guarding women.

5. Let not a woman reside in another man's house, separated from her father, husband, or sons ; by (giving way to) malicious propensities, particularly, she is sure to lose her reputation.

6. Rising before (the others), paying reverence to the elders of the family, preparing food and condiments, and using a low seat and bed : thus have the duties of women been declared.

7. Drinking (spirituous liquor), rambling abroad, sleeping by day, and neglect of her daily duties, are faults disgracing a woman.

8. That wife is declared to be devoted to her husband who is afflicted when he is afflicted, pleased when he is happy, squalid and languid when he is absent, and who dies when he dies.

9. While her husband is absent, a woman must avoid decorating herself, as well as dancing, singing,

4. Ratn. p. 416 ; Col. Dig. IV, 1, 31 ; Vīram. p. 419.

5. Ratn. p. 427.

6. Ratn. p. 428 ; Col. Dig. IV, 2, 90.

7. Ratn. p. 431 ; Col. Dig. IV, 2, 100.

8. Ratn. p. 436 ; Col. Dig. IV, 2, 107. See 11.

9. Ratn. p. 439 ; Col. Dig. IV, 2, 118.

looking on at public spectacles or festivals, and using meat or intoxicating drinks.

10. A wife practising religious austerities, fasting and preserving her chastity, self-controlled and liberal always, goes to heaven even though she have no son.

11. A wife is considered half the body (of her husband), equally sharing the result of his good or wicked deeds; whether she ascends the pile after him, or chooses to survive him leading a virtuous life, she promotes the welfare of her husband.

12. The Niyoga (appointment of a widow to raise offspring to her deceased lord) has been declared by Manu, and again prohibited by the same; on account of the successive deterioration of the (four) ages of the world, it must not be practised by mortals (in the present age) according to law.

13. In the ages *Kṛita*, *Tretâ*, and *Dvâpara*, men were imbued with devotion and sacred knowledge; in the (present or) *Kali* age, a decrease of its power has been ordained for the human race.

14. The various sons who were appointed by ancient sages cannot be adopted now by men of the present age, as they are destitute of power.

XXV. THE LAW OF INHERITANCE.

1. After the death of both parents, division of the property among brothers has been ordained (to take

10. Ratn. p. 443; Col. Dig. IV, 3, 138.

11. Ratn. p. 442; Col. Dig. IV, 3, 132. It appears from these texts that *Bṛhaspati* advocates the custom of *Satî* (self-immolation of the widow) as an optional rite only, in common with *Vishnu* and other Indian legislators and jurists.

12-14. Ratn. pp. 449, 450; Col. Dig. V, 4, 279 and IV, 4, 157. See Manu I, 81-86; IX, 56-70.

XXV, 1. Col. Dig. V, 2, 99, 115; D. II, 1; May. p. 39; V. p. 46;

place). It may take place even in their lifetime, if the mother be past child-bearing.

2. Houses and landed property inherited from an ancestor shall be shared equally by the father and sons; but the sons cannot claim a share of their father's own property without the consent of the father.

3. Of property acquired by the grandfather, whether immovable or movable, father and son are declared to be entitled to equal shares.

4. Those (sons) for whom their shares have been arranged by the father, whether equal, less, or greater, must be compelled to abide by such arrangement. Otherwise (if they try to alter the arrangement), they shall be punished.

5. When a partition is made during (the father's) life, the father shall reserve a couple of shares for himself.

6. The worship of the Manes, gods, and Brahmans by those residing (together) and cooking their food (in one house) is single. But when they divide the

Ratn. p. 462. The author of the *Dâyabhâga* and other writers of the Bengal school hold that this rule applies to ancestral wealth only, and that, moreover, the consent of the father is required in every division of his property during his lifetime. In the other schools of law, this text is given its plain meaning.

2. Col. Dig. V, 2, 94 ('Vyâsa'); May. p. 39. The *Mayûkha* deduces from this text the doctrine, generally held by the followers of the *Mitâksharâ*, that partition of property inherited from a grandfather or more remote ancestor may be instituted by sons even against their father's wish.

3. Col. Dig. V, 2, 93; D. II, 50; V. p. 66; May. p. 43.

4. Col. Dig. V, 1, 31; D. II, 75; V. p. 56; Ratn. p. 468.

5. Col. Dig. V, 2, 97; D. II, 46; Ratn. p. 465.

6. V. pp. 53, 257; Ratn. p. 459; Viv. p. 227; Col. Dig. V, 6, 388.

property, (the worship) takes place separately in each house.

7. Partition among coparceners is declared to be of two kinds; one is with attention to priority of birth, the other consists of the allotment of equal shares.

8. All sons of the twice-born, begotten on women equal in caste (to their husbands), shall take equal shares, after giving a preferential share to the eldest.

9. He who is the first by birth, sacred knowledge, or good qualities, shall take a couple of shares out of the partible wealth, and the rest shall take equal shares; but he stands to them in the relation of a father, as it were.

10. When they divide their father's heritage, all the sons shall share alike; but he who is distinguished by sacred knowledge and virtue, shall obtain a greater share (than the rest).

11. They are parents in the true sense of the term who have a son whose fame is spread in the world for sacred knowledge, cleverness, valour, wealth, and for knowledge, liberality, and pious acts.

12. In property belonging to the grandfather which had been taken away and has been (afterwards) recovered by the father through his own

7. Col. Dig. V, 1, 30; D. II, 80.

8. Col. Dig. V, 1, 53; D. II, 42.

9. Col. Dig. V, 1, 45; D. II, 42; V. p. 67; Viv. p. 235.

10. Col. Dig. V, 1, 67; V, 3, 116.

11. Col. Dig. V, 3, 116; Ratn. p. 484.

12, 13. Col. Dig. V, 2, 90; D. VI, 2, 34; V. p. 126; May. p. 40; Ratn. p. 461. Some compilations read *bhâgam*, 'withhold it from partition,' for *bhogam*, 'consume it.'

ability, as well as in property acquired by sacred knowledge, valour in arms, &c., the father's ownership has been declared.

13. He may make a gift out of that property, or even consume it, at his will. But in his default, his sons are pronounced to be equal sharers.

14. Whatever has been acquired by all together, in that property they all have equal shares. Their sons, whether unequal or equal (in number), are declared (to be) heirs of the shares of their (respective) fathers.

15. When there are many sons sprung from one father, equal in caste and number, but born of different mothers, a legal division (of the property) may be effected by adjusting the shares according to the mothers.

16. (When there are several brothers) equal in caste, but varying in number (of sons begotten with each wife), a division according to males is ordained.

17. When step-brothers born of different mothers or uterine brothers have come to a division with their father, afterborn brothers shall take their father's share.

18. A son born before (partition) has no claim to the paternal wealth; nor (can) a brother's wealth (be claimed by) one born after partition.

19. Whatever has been acquired, with his own

14. Ratn. p. 481; Aparârka.

15. Col. Dig. V, 1, 62; D. III, 1, 12; May. p. 46; V. p. 76; Ratn. p. 975.

16. Col. Dig. V, 1, 63; May. p. 46; V. p. 76.

17, 18. Col. Dig. V, 2, 100; D. VII, 5; V. p. 93; Ratn. p. 538.

18. M. I, 6, 4; V. p. 219.

19. M. I, 6, 6; Col. Dig. V, 7, 392.

effort, by a father who has come to a partition with his sons, all that belongs to the son born after partition. Those born before it are declared to have no right.

20. In regard to the property as well as regards debts, gifts, pledges, and purchases, they are independent of each other, excepting impurity (caused by a death) and offerings consisting of water libations.

21. Should there be younger brothers, whose initiation has not been performed, they must be initiated by the other brothers (the expense being defrayed) out of the family property (inherited) from the father.

22. Whether partition has or has not been made, whenever an heir comes forward, he shall receive a share of such wealth as he can prove to be the joint property (of the family).

23. Whether it be a debt, or a document, or house, or field, which has been inherited from the paternal grandfather, he shall take his proper share of it, when he returns after a protracted absence even.

24. When a man has gone abroad, leaving the joint estate of his family, his share must undoubtedly be given to his descendant who has returned from abroad.

25. Whether he be the third or the fifth or even the seventh in descent, he shall receive the share belonging to him by right of succession, his

19, 20. *Ratn.* p. 539; *May.* p. 47; *D.* VII, 6; *V.* pp. 93, 219.

21. *Col. Dig.* V, 3, 132; *May.* p. 48; *V.* p. 86; *Viv.* p. 277.

22-26. *Col. Dig.* V, 7, 394; *D.* VIII, 1-3; *Ratn.* p. 540.

24-26. *Viv.* p. 241.

25. *May.* p. 46.

birth and family name having been ascertained (first).

26. He whom indigenous inhabitants and neighbours know to be the (legal) owner, to the descendants of that man must the land be surrendered by his kinsmen, when they make their appearance.

27. Let Brahmans, Kshatriyas, Vaisyas, and Sûdras, begotten in order by a Brahman, take four, three, two shares, and one share, in succession.

28. Let those begotten by a Kshatriya (take) three shares, two shares, and one share (respectively). Let those begotten by a Vaisya take two shares and one share.

29. The son by a Kshatriya wife, if elder by birth and endowed with superior qualities, shall take an equal share with the Brahman (son); and so shall a son by a Vaisya wife (share equally) with a Kshatriya son.

30. Land obtained by acceptance of a gift must never be given to the son of a Kshatriya woman or other (wife inferior in caste to her husband). Though their father may have given it to them, the son by a Brahman wife shall take it after the death (of the father).

31. An obedient and excellent son of a man having no other male issue, shall receive a maintenance (though he be born) of a Sûdra woman; let the Sapindas take the remainder.

27. Uggvalâ, p. 79; Varadarâga, p. 19.

28. Varadarâga, p. 19.

29. Col. Dig. V, 3, 156; D. IX, 15; V. p. 98.

30. Col. Dig. V, 3, 161; D. IX, 19; M. I, 4, 36, I, 8, 8; May. p. 46; V. p. 99; Viv. p. 272.

31. Col. Dig. V, 3, 168; D. IX, 28; Viv. p. 274; May. p. 47.

32. A son begotten with a Sûdra woman by a twice-born man is not entitled to a share of the landed property; one begotten with a woman of equal caste shall take all. Thus has the law been settled.

33. Of the thirteen sons mentioned in succession by Manu, the legitimate son of the body (Aurasa) and the appointed daughter (Putrikâ) continue the family.

34. As in default of ghee, oil is admitted by the virtuous as a substitute (at sacrifices), so are the eleven sons (admitted as substitutes), in default of a legitimate son of the body and of an appointed daughter.

35. No one but a legitimate son of the body is declared to be heir of his father's wealth. An appointed daughter is said to be equal to him. All the others are stated to have a claim to maintenance (only).

36. Because a son (Putra) saves his father from the hell called Put by the very sight of his face, therefore should a man be anxious to beget a son.

37. Both a son's son and the son of an appointed daughter cause a man to attain heaven. Both are pronounced to be equal as regards their right of inheritance and the duty of offering funeral balls of meal (Pindas).

32. Col. Dig. V, 3, 164; V. p. 99; Ratn. p. 534. The Ratnâkara after this text inserts two other texts on the right of a Nishâda son, which are elsewhere attributed to Devala.

33, 34. V. p. 120. See Manu IX, 126, 158-160.

35. Col. Dig. V, 4, 215; Viv. p. 285; V. p. 121.

36. Col. Dig. V, 4, 304. punnâmno narakât putraḥ pitaram trâyate yataḥ | mukhasamdarsanenâpi tadutpattau yateta saḥ ||

37. Col. Dig. V, 4, 304; Uggvalâ, p. 80.

38. Gautama has declared that a daughter is appointed after performing a sacrifice to Agni and Pragâpati; others have said that she is an appointed daughter (Putrikâ) who was merely supposed to be one (before her birth) by a man having no male issue.

39. The other sons, beginning with the son begotten on a wife (Kshetrâga), shall (respectively) take a fifth, a sixth, and a seventh part.

40. The son given, the son cast off, the son bought, the son made (or adopted), the son by a Sûdra wife: these, when pure by caste and irreproachable as to their conduct, are considered sons of middle rank.

41. The son begotten on a wife (Kshetrâga) is despised by the virtuous; and so are the son begotten on a woman twice married, the son of an unmarried damsel, the son received with the wife, and the son secretly born.

42. Though born of a wife of the same caste, a son destitute of good qualities is unworthy to obtain the paternal wealth; it shall go to those learned (kinsmen) who offer the funeral ball of meal (Pinda) for the father.

43. A son redeems his father from the highest

38. Col. Dig. V, 4, 225; Ratn. p. 562. See Gautama XXVIII, 18.

39. Col. Dig. V, 4, 246; Ratn. p. 545; V. p. 125. The Vîramitrodâya reads samabhâgînâh for sapta bhâgînâh, 'The other five or six sons beginning with the wife's son are equal sharers.' Regarding the wife's son (Kshetrâga), see Manu IX, 167; Brîhaspati XXIV, 12-14.

40, 41. Col. Dig. V, 4, 202; V. p. 128; Ratn. p. 552.

42, 43. May. p. 101.

42-45. Col. Dig. V, 4, 264; V, 319; D. V, 4; V. p. 256; Viv. p. 242.

and lowest debts; consequently there is no use of him who acts otherwise.

44. What can be done with a cow which neither gives milk nor is (ever) pregnant? What is the good of a son being born who is neither learned nor virtuous?

45. A son who is destitute of learning, valour, and wealth, void of devotion and insight, and unobservant of good custom, such a son is declared to be no better than urine and fæces.

46. In the revealed texts (of the Veda), in the traditional law (of the *Smritis*), and in popular usage, the wife is declared to be half the body (of her husband), equally sharing the outcome of good and evil acts.

47. Of him whose wife is not dead, half his body survives. How should any one else take the property, while half (his) body lives?

48. Although kinsmen (*Sakulyas*), although his father and mother, although uterine brothers be living, the wife of him who dies without leaving male issue shall succeed to his share.

49. A wife deceased before (her husband) takes away his consecrated fire (*Agnihotra*); but if the husband dies before the wife, she takes his property, if she has been faithful to him. This is an eternal law.

50. After having received all the movable and immovable property, the gold, base metals and grain, liquids and wearing apparel, she shall cause

46. See XXIV, 11.

46-52. Col. Dig. V, 8, 399; V. 8, 416; D. XI, 1, 2; Ratn. p. 589.

46-49. V. pp. 141, 142.

47. M. II, 1, 6.

48-52. Viv. pp. 289, 290.

his monthly, sixmonthly, and annual Srâddhas to be performed.

51. Let her propitiate with funeral oblations and pious liberality her husband's paternal uncles, Gurus, daughter's sons, sister's sons, and maternal uncles; also aged or helpless persons, guests, and women (belonging to the family).

52. Should agnates (*Sapindas*) or cognates (*Bândhavas*) or enemies injure the property, let the king inflict on them the punishment destined for a thief.

53. The husband being separated (in interests from his former coparceners), his wife shall take after his death a pledge and whatever else is recognised as property, excepting the immovable wealth.

54. A wife, though preserving her character and though partition have been made, is unworthy to obtain immovable property. Food or a portion of the arable land shall be given to her at will (for her support).

55. The wife is declared to succeed to her husband's property, and in her default, the daughter.

56. A daughter, like a son, springs from each member of a man; how then should any other mortal inherit the father's property while she lives?

57. Equal in caste (to her father) and married to a man of the same caste as her own, virtuous, habitually submissive, she shall inherit her father's property, whether she may have been (expressly) appointed or not.

53, 54. May. p. 77; V. pp. 134, 135, 173.

55, 56. M. II, 2, 2; *Smṛitik.* (K. Iyer's translation) XI, 2, 113.

56-58. Col. Dig. V, 4, 224; D. XI, 2, 8, 17; V. pp. 176, 180, 183; Viv. pp. 292-294.

56, 57. Ratn. p. 591.

58. As her father's wealth becomes her property, though kinsmen be in existence, even so her son becomes the owner of his mother's and maternal grandfather's wealth.

59. In default of them, uterine brothers or brother's sons, agnates (Sakulyas) and cognates (Bāndhavas), pupils, or learned Brahmans are entitled to the inheritance.

60. When a man dies leaving no issue, nor wife, nor brother, nor father, nor mother, all his *Sapindas* shall divide his property in due shares.

61. Half the entire wealth, however, shall first be set apart for the benefit of the deceased (owner) and carefully assigned for his monthly, sixmonthly, and annual *Srāddhas*.

62. When there are several relatives, agnates (Sakulyas), and cognates (Bāndhavas), whosoever of them is the nearest shall take the wealth of him who died leaving no issue.

63. When a man dies without leaving either wife or male issue, the mother has to be considered as her son's heiress, or a brother (may succeed) if she consents to it.

64. But on his death the mother shall take a son's share. The mothers shall share equally with the sons, the maidens shall take fourth-part shares.

59. Col. Dig. V, 8, 422; D. XI, 2, 26. 'In default of them,' i. e. of a daughter or daughter's son.

59-62. Col. Dig. V, 8, 437; Ratn. p. 595.

60. V. p. 216.

61. D. XI, 6, 13.

62. V. p. 194; May. p. 81.

63. Col. Dig. V, 8, 423; V. p. 191; Viv. p. 293; D. XI, 3, 2.

64. Col. Dig. V, 2, 85; V. pp. 81, 84, &c. 'On his death,' i. e. on the father's death. For *tanayāmsasamāmsinî*, 'shall take a son's share,' the *Vīramitrodaya* reads *tanayā vā samāmsinî*, 'or the

65, 66. To a father the funeral ball (*Pinda*) and water oblation shall be offered by his son; in default of a son, the widow (succeeds); in her default, a uterine brother; in default of him, the co-heirs (*dâyâdâh*); afterwards, the property goes to the daughter's son.

67. Should a Kshatriya, Vaisya, or Sûdra die without leaving male issue, or wife, or brother, their property shall be taken (as escheat) by the king, for he is the lord of all.

68. Except in the case of a Brahman; but a king bent on the practice of virtue must allot a maintenance to his women. Thus has the law of inheritance been declared.

69. For her food (he must assign) a Prastha of rice every afternoon, together with fuel, and one dress purchased for three *Panas* must be given to her every three months.

70. What is left after setting apart property suffi-

daughter shall take an equal share.' Vâkaspatimisra, Kamalâkara, Nandapanâita, and other commentators explain the term *mâtaraḥ*, 'mothers,' as denoting step-mothers who have no issue, whereas in the first clause the term 'mother' (*ganani*), according to them, denotes a woman who has male issue. It seems more natural, however, to interpret the term 'mother' in the same way in both clauses. Vishnu (XVIII, 34, 35) has the analogous precept that mothers and maiden daughters shall receive shares corresponding to the shares of sons. Vishnu's rule relates to a division of property among sons differing in caste, and the present text of Brîhaspati seems to apply to the same case.

65, 66. Aparârka; *Smṛiti*. XI, 4, 19 (Iyer). These texts are quoted in some works only, and it is certainly difficult to reconcile them with the other texts of Brîhaspati on inheritance.

67. Col. Dig. V, 8, 446; D. XI, 1, 49; May. p. 83; Viv. p. 298.

68-71. Nandapanâita's Vaigayantî; *Ugavalâ*, p. 82; Gautamîyâ Mitâksharâ. The reading in 71 is uncertain.

cient for the expense of her dress, food, and for the washerman, shall be made over to the co-heirs.

71. (The widow) shall recite the Dhûmâvasânika prayer in the evening, bathe frequently, and pay no regard to dwelling, food, or clothing after her husband's death.

72. He who (having been divided) is again living, through affection, together with his father or brother, or with his uncle even, is said to be reunited with them.

73. When brothers formerly divided are again living together through affection and arrange a second division, the right of primogeniture does not accrue in that case.

74. When any one (brother) should die or anyhow renounce worldly interests, his share is not lost; it is allotted to his uterine brother.

75. If there be a sister, she is entitled to a share of his property. This is the law regarding (the wealth of) one destitute of issue, and who has no wife or father.

76. When two (coparceners) have again established together, they shall mutually inherit their property.

77. If among reunited coparceners any one should acquire property through learning, valour, or other (independent effort of his own), a double share must be given to him; the rest shall take equal shares.

78. Whatever has been given by the paternal

72. Col. Dig. V, 8, 430; M. II, 9, 3; May. p. 84; V. pp. 40, 162, 205; Viv. p. 300; D. XI, 1, 30, XII, 3; Ratn. p. 605.

73-75. Col. Dig. V, 8, 407; Viv. p. 302; V. p. 159.

76. May. p. 88; Viv. p. 305; Ratn. p. 602.

77. Col. Dig. V, 8, 460; V. p. 205; May. p. 85; Viv. p. 302.

78. May. p. 69; *Smṛitiḥ*. (Iyer) VII, 23.

grandfather, the father, or the mother, (all that) shall not be taken from him (who possesses it); (he may keep), likewise, property acquired by valour and the wealth of his wife.

79. Those by whom clothes and the like articles have been declared indivisible have not decided properly. The wealth of the rich depends on clothes and ornaments.

80. (Such wealth) when withheld from partition will yield no profit; but neither can it be allotted to a single (coparcener). Therefore it has to be divided with some skill; or else it would be useless.

81. Clothes and ornaments are divided by (distributing the proceeds after) selling them; a written bond (concerning a debt, is divided) after recovering the sum lent; prepared food (is divided) by an exchange for (an equal amount of) unprepared food.

82. The water of a well or pool shall be drawn and used according to need. A single female (slave) shall be (successively) set to work at their houses (by the several sharers) according to their shares (of the inheritance).

83. If there are many of them, they shall be divided equally. The same rule applies to male slaves as well. Property obtained for a pious purpose shall be divided in equal shares.

84. Fields and embankments shall be divided according to their several shares. A common (road or) pasture-ground shall be always used by the co-heirs in due proportion to their several shares.

79-84. Col. Dig. V, 5, 366; May. pp. 71, 72; *Smṛitik.* (Iyer) VII, 41-43, &c. The arrangement of these texts varies in the several works.

80 b, 82. D. I, 10; V, 3.

85. The clothes, ornaments, bed, and the like, as well as the vehicle and the like, appertaining to the father, shall be given to the person who partakes of his funeral repast, after honouring him with fragrant drugs and flowers.

86. Such property, whether immovable or other, as has been given to women by their father-in-law, can never be taken away from them by the co-heirs.

87. Stridhana goes to the children, and the daughter if not betrothed has a share in it. If she is married, she shall receive an honorary trifle only.

88. The mother's sister, the wife of a maternal uncle, a paternal uncle's wife, a father's sister, a mother-in-law, and an elder brother's wife are declared to be equal to a mother.

89. If they have no legitimate son of the body, nor (other) son, nor daughter's son, nor their son, their sister's son, &c. shall inherit their property.

90. A heinous crime, (a claim regarding) immovable property, a deposit, and a previous partition among co-heirs, have to be ascertained by circumstantial evidence, in default of documents and witnesses.

91. A family feud, mutual malice, or the discovery of stolen goods, may be evidence of a heinous crime; possession of the land may be proof of property; and separate property is an argument of partition.

85. M. I, 4, 17; May. p. 70; V. p. 250.

86. V. p. 174; *Smṛitiik.* XI, 1, 44.

87. Col. Dig. V, 9, 487; D. IV, 2, 3; Viv. p. 267; V. p. 229. The two first works read, 'she does not take her mother's wealth' for 'she shall receive an honorary trifle only.'

88, 89. Col. Dig. V, 9, 513; D. VI, 3, 31; May. p. 98; V. p. 243.

90-92. Col. Dig. V, 6, 389; D. XIV, 8.

90, 92. V. p. 261.

92. Those who keep their income, expenditure, and mortgages distinct, and engage in mutual transactions in money-lending and traffic, are undoubtedly separate.

93. Whether kinsmen are united or separate, they are all alike as regards immovable property, as no one of them has power in any case to give, mortgage, or sell it.

94, 95. Whatever share is enjoyed by each, must not be changed from him. If he should subsequently contest a distribution, which was made with his own consent, he shall be compelled by the king to content himself with his share, and shall be punished if he should persist in contention.

96. When the loan or mortgaging of joint property is concealed with a fraudulent purpose, the king shall recover it from the cheat by artifice, but not use violence to extort it from him.

97. Cheats, robbers of wealth, crafty and covetous men, shall be reclaimed by friendly expostulation, by the loss of their own property, or by stratagem.

98. Household utensils, beasts of burden and the like, milch cattle, ornaments, and workmen have to be divided on being discovered. When property is (supposed to be) hidden, proof by sacred libation is ordained.

92. May. p. 75; Viv. p. 313; Ratn. p. 608.

93. M. I, 1, 30; May. p. 76; V. pp. 87, 158; D. II, 27 ('Vyâsa'). For 'kinsmen' some works read 'coparceners' or 'co-heirs' (dâyâdâñ). The general meaning remains the same.

94, 95. Col. Dig. V, 6, 378; May. p. 76; V. pp. 258, 259.

96, 97. Col. Dig. V, 6, 379; Ratn. p. 526.

98. Smṛitiik. (Iyer) VI, 11.

99. When there are many uterine brothers sprung from one (father), and a son is born even to one of them only, they all are declared to have male offspring (through that son).

100. The same rule is declared for a plurality of wives of one (husband); if one of them has male issue, that (son) shall present the funeral ball of meal to them all.

101. (For one leaving no male issue), a brother, or brother's son, or a *Sapinda*, or a pupil, should first perform the ceremony of uniting him with the *Sapindas* (to be worshipped at a *Srâddha* offering), and then offer him the funeral ceremonies customary on joyful occasions.

XXVI. GAMBLING AND BETTING.

1. Gambling has been prohibited by Manu, because it destroys truth, honesty, and wealth. It has been permitted by other (legislators) when conducted so as to allow the king a share (of every stake).

2. It shall take place under the superintendence of keepers of gaming-houses, as it serves the purpose of discovering thieves. The same rule has to be observed in bets on prize-fights with animals.

3. When birds, rams, deer or other (animals) are caused to fight against one another, after a wager has been laid, it is called betting on animals (*samâhvaya*).

99, 100. Ratn. p. 583; Varadarâga, p. 27.

101. Ratn. p. 600; Col. Dig. V, 8, 454.

XXVI, 1, 2. Viv. p. 318; Vîram. pp. 721, 722. See Manu IX, 224.

3. Viv. p. 317; Ratn. p. 610.

4. When any one is defeated in a prize-fight between two animals, the wager which has been laid shall be paid by the owner of the (defeated) animal.

5. A wager (or game) shall be made in public; false gamblers shall be banished.

6. When there is a point at issue between the two parties (in a game or wager, other) gamblers shall examine (and decide) the matter; if they are enemies (of either party), the king shall decide the dispute.

7. One defeated in a secret game; or ignorant of the rules; or (defeated) by the use of false dice, or by deceit, though acquainted with the game, shall be released; and one who has lost his entire wealth in a game shall not be compelled to give the whole of it.

8. The keeper of the gaming-house shall receive the stakes and pay the victorious gambler and the king; he shall also act as witness in a dispute, assisted by three other gamblers.

9. Those wicked men who use false dice in a game, or rob the king of his due, or cheat by making false computations, are declared to be gamblers deserving punishment.

XXVII. MISCELLANEOUS (Prakîrṇaka).

1. This (aggregate of rules concerning) lawsuits instituted by litigants has been briefly declared; I will declare (next the law concerning) Miscellaneous Causes instituted by the king (in person).

4, 5. Viv. p. 318; Viram. p. 720.

6. Viram. p. 720.

7-9. Ratn. pp. 614-617.

XXVII, 1. Viram. p. 722; Ratn. p. 621.

2. In the case of a conflict between two *Smṛitis* (texts of law), equity should be resorted to; when the law-books are inapplicable, that course should be followed which is indicated by a consideration of the circumstances of the case.

3. (However) the first rank (among legislators) belongs to Manu, because he has embodied the essence of the Veda in his work; that *Smṛiti* (or text of law) which is opposed to the tenor of the laws of Manu is not approved.

4. When he has discovered a man to be an offender, (the king) should inflict (one of the various sorts of punishment) on him, (gentle) admonition, (harsh) reproof or corporal chastisement, or one of the four gradations of fines.

5. (Let him inflict) a (gentle) admonition, when the offence is very light; (harsh) reproof, for a crime in the first degree; a fine, for a crime in the (second or) middlemost degree; and arrest, in the case of high-treason.

6. Banishment also may be resorted to by (a king) desirous of promoting his own welfare in order to meet opposition, and all (the various) sorts (of punishment) should be united in the case of one who has committed a mortal sin.

7. (The king) should punish elders, domestic priests, and persons commanding respect, with (gentle) admonition only; other litigants he should amerce in a fine, when they are found to be guilty;

2. *Vīram*. p. 119.

3. *Col. Dig.* V, 5, 333. *vedārthopanibaddhatvât prâdhânyam tu manoḥ smṛitam | manvarthaviparîtâ yâ na sâ smṛitiḥ prasasyate ||*

4-7. *Ratn.* p. 629.

and on the perpetrators of a heavy crime he should inflict corporal punishment.

8. (Gentle) admonition and (harsh) reproof are declared to be the privilege of the Brahman (appointed as chief judge); but both fines and corporal punishment may be inflicted by the king only.

9. Both hands, both feet, the male organ, the eye, the tongue, both ears, the nose, the neck, one half of the feet, the thumb and index, the forehead, the lips, the hindpart, and the hips :

10. These fourteen places of punishment have been indicated. For a Brahman, branding him on the forehead is ordained as the only kind of punishment.

11. A Brahman, though a mortal sinner, shall not suffer capital punishment; the king shall banish him, and cause him to be branded and shaved.

12. That man who deserves capital punishment shall be compelled to pay one hundred *Suvarnas*; one deserving to have a limb cut off, half as much; and one deserving to have the thumb and index (cut off), half of that.

13. The eighteen titles of law have been explained, together with the particulars of plaint and answer. Learn now (the law regarding) the relative validity of transactions.

14. That transaction which has been prior in time (to another) shall be upheld. If it is departed from, that is (called) an alteration of a transaction.

15. If a creditor or debtor revokes a previous

8. Ratn. p. 630. 9, 10. Ratn. p. 631. 11. Ratn. p. 634.

12. Ratn. p. 656. 13-18. Ratn. pp. 618-620.

agreement and makes another contract of the same description, (in which a) greater or less (amount is stated), it is termed an alteration of a transaction.

16. When (a debtor) having received a loan at the rate of two per cent. (in the month) promises to pay five per cent., that subsequent agreement is valid.

17. Between two successive transactions, the first is (rendered) void (by the second); a subsequent agreement prevails over the one preceding it in time.

18. When a man first makes a deposit and converts it into a pledge afterwards, after receiving money (for it), or sells it, the second transaction prevails over the first.

[19. Forbidden practices are found among the Southerners in the present day, (such as) matches with a maternal uncle's daughter, in spite of the prohibited degree of relationship on the mother's side (causing such unions to be illegal).

20. The highly reprehensible custom of a brother living with his deceased brother's wife, and the delivery of a marriageable damsel to a family is found in other countries.

21. What is more, matches with a mother occur among the Pârasikas. The inhabitants of some countries do not allow the presentation of fresh gifts (of food) at a Srâddha offering to those Brahmans who have been fed at a Srâddha held on the eleventh

19-24. These texts will be published elsewhere. They have been taken from the *Samskâra Kânda* of the *Smṛitikandrikâ*, where they are quoted from an uncertain author. 20 has been printed, as a text of *Bṛihaspati*, in Professor Bühler's *Ugvalâ*, p. 101. The term 'Pârasikas' denotes the Persians, or perhaps the Parsis of India.

day (after the decease of a person) or at some other Śrāddha.

22. Others, after lending grain, take twice as much back in the autumn season and occupy the embanked land, after having received twice the amount lent,

23. Though the principal has been repaid. This is reprehensible also. Such forbidden practices (the king) should check (when they are resorted to) through folly.

24. Such customs as are not opposed to the laws of particular countries and castes or other (corporations), every king should establish in accordance with the sacred law, after consulting the law-books.]

25. Thus let the king every day examine, in common with learned Brahmans, both the suits proffered by litigants and those instituted by the king (himself).

26. When the safety of many may be effected by destroying a single offender, his execution is productive of religious merit (even).

25. Ratn. p. 618.

26. Smṛitiḥ. ekasmin yatra nidhanam prāpīte dushṭakāriṇi | bahūnām bhavati kshemas tasya punyaprado vadhaḥ ||

ADDENDA.

P. 231, Appendix v. 56. This difficult text, together with an additional text, is quoted in a somewhat different, but equally faulty form, in the recently published last fasciculus of the Vivâdaratnâkara in the Bibliotheca Indica. I propose to render the two texts as follows: 'Fines beginning with a Kârshâpana may amount to four Kârshâpanas at most (in heavy cases); there are others beginning with two and rising to eight, or beginning with three and rising to twelve Kârshâpanas. All those (fines) which have been declared to begin with one Kârshâpana may be raised to the fourfold amount; the same rule applies to the other fines as well, excepting the highest fine (which consists of 2500 Panas).'

P. 369, after v. 14, add ' 15. A wife should be honoured by her husband with (presents of) clothes, ornaments, and food; and at a festival (she should receive similar presents) from her father and brothers, her parents-in-law, and other relations.'

P. 369, after note on vv. 12-14, add 15. Smṛitiḥ. bhartrâ patnî samabhyarkyâ vastrâlamkârabhoganaih | utsave tu pitribhrâtrîsva-surâdyais ka bandhubhiḥ ||